

**STATUTES AND REGULATIONS
RELATING TO THE PRACTICE OF:**

**MARRIAGE AND FAMILY THERAPY
EDUCATIONAL PSYCHOLOGY
CLINICAL SOCIAL WORK**



**ISSUED BY:
BOARD OF
BEHAVIORAL SCIENCES**

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EXECUTIVE OFFICER**

***THE STATUTES AND REGULATIONS IN THIS BOOKLET
REFLECT CHANGES MADE THROUGH
JANUARY 1, 2007***

NEW / AMENDED LAWS

The following statutes and regulations have been amended:

NEW / AMENDED LAWS	
Section Number	Change
4984.6	Technical change regarding the Board's funding.
4989.10	Names the Educational Psychologist Practice Act.
4989.12	Clarifies that the Board administers the Licensed Educational Psychologist (LEP) practice act.
4989.14 (b), (e) – (i)	Changes to LEP scope of practice.
4989.16	Clarifies exceptions to the LEP practice act.
4989.20	Changes to LEP licensure requirements.
4989.32	Technical changes regarding renewal of LEP licenses.
4989.34	Requires continuing education for LEPs.
4989.44	Technical changes regarding inactive LEP licenses.
4989.52	Requires compensation of LEPs to be in relation to services provided.
4989.54 (a) - (d), (f), (g), (l) – (w)	Changes to LEP unprofessional conduct statute.
4989.56	Requires revocation of LEP license when licensee uses/offers to use drugs in practice.
4989.62	Technical change regarding disciplinary actions against LEPs.
4989.70	Technical change to LEP law regarding reporting and payment of revenue.
4990 (c)	Requires Board members to reside in California.
4990.04 (e)	Clarifies that the Board chair and executive officer may call meetings.
4990.18	Technical change regarding board resources and functions (provision from Marriage and Family Therapist (MFT) law amended to general administrative law).
4990.20	Technical changes regarding adoption, amendment and repeal of laws (provisions from MFT law amended to general administrative law).
4990.22 (a)	Technical change regarding Board funds (provision from MFT law amended to general administrative law).
4990.28	Technical change regarding denial of license due to mental illness or chemical dependency (provision from MFT/Licensed Clinical Social Worker (LCSW) law amended to general administrative law).
4990.30	Technical change regarding petition for modification of a penalty (provision from MFT law amended to general administrative law).
4990.32	Technical change regarding filing of accusations (provision from MFT/LCSW law amended to general administrative law).
4990.34	Technical change regarding placement of licenses on probation (provision from MFT law amended to general administrative law).
4990.36	Technical change regarding terms of probation (provision from MFT law amended to general administrative law).
4990.38	Technical change regarding disciplinary actions imposed by other governmental entities (provision from MFT/LCSW law amended to general administrative law).
4990.40	Technical change regarding revocation of license due to sexual misconduct (provision from MFT/LCSW law amended to general administrative law).
4990.42	Technical change regarding enforcement proceedings (provision from MFT/LCSW law amended to general administrative law).
4994	Technical change regarding the Board's expenditures.
4996.17	Changes regarding portability of LCSW licenses.
1886.40	Changes regarding citations and fines.

STATUTE REORGANIZATION

The following statutes have been reorganized.

This chart will assist you in determining where sections of law have been reorganized. As part of the reorganization, the LEP practice act has been placed into its own chapter (13.5) and has all new section and article numbers. The Board's Administration statutes have also been renumbered and placed into their own chapter (13.7) with new article numbers.

REFERENCE TABLE FOR REORGANIZED/RENUMBERED STATUTES			
Previous Section	New Section	Previous Section	New Section
4986	4989.50	4987	4989.18
4986.10	4989.14	4990	4991
4986.20	4989.20	4990.1	4990 (a), (l)
4986.21	4989.20, 4989.22	4990.2	4990.02
4986.30	4989.32 (d), 4989.34	4990.3	4990
4986.40	4989.20	4990.4	4991.2
4986.41	4989.48	4990.5	4990 (d), (e), (f)
4986.42	4989.32	4990.6	4990 (g)
4986.43	4989.36	4990.7	4990.04 (a)
4986.44	4989.38	4990.8	4990.04 (c), (f)
4986.45	4989.40	4990.9	4990.04 (d)
4986.46	4989.42	4990.10	4990.06
4986.47	4989.46	4990.11	4990.08
4986.50	4989.50	4990.12	4990.10
4986.70	4989.54	4990.125	4990.16
4986.71	4989.58	4990.13	4990.12
4986.75	4989.54 (c), 4989.56	4990.14	4990.20 (a)
4986.80	4989.68	4990.15	4990.14
4986.81	4989.66	4990.16	4990 (h)
4986.82	4989.44	4992.31	4990.32
4986.90	4989.64	4998.6	4990.20 (b)

***THIS BOOKLET DOES NOT CONTAIN CHANGES MADE AFTER
JANUARY 1, 2007.***

**Please refer to the board's website (www.bbs.ca.gov)
for any changes made after this date.**

TABLE OF CONTENTS

BUSINESS AND PROFESSIONS CODE OF CALIFORNIA

CHAPTER 13. MARRIAGE AND FAMILY THERAPISTS 8

ARTICLE 1. REGULATION 8

§4980. NECESSITY OF LICENSE	8
§4980.01. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES	8
§4980.02. PRACTICE OF MARRIAGE, FAMILY AND CHILD COUNSELING; APPLICATION OF PRINCIPLES AND METHODS.....	9
§4980.03. BOARD; INTERN; TRAINEE; ADVERTISE	9
§4980.07. ADMINISTRATION OF CHAPTER	10
§4980.08. LICENSE TITLE NAME CHANGE	10
§4980.10. ENGAGING IN PRACTICE	10
§4980.30. APPLICATION FOR LICENSE; PAYMENT OF FEE.....	10
§4980.31. DISPLAY OF LICENSE	10
§4980.34. LEGISLATIVE INTENT	10
§4980.35. OBLIGATION TO PROVIDE COMPLETE AND ACCURATE APPLICATION; DUTIES OF BOARD	11
§4980.37. DEGREE PROGRAM; COURSE OF STUDY AND PROFESSIONAL TRAINING	12
§4980.38. NOTIFICATION TO STUDENTS OF DESIGN OF DEGREE PROGRAM; CERTIFICATION OF FULFILLMENT OF REQUIREMENTS	12
§4980.39. ADDITIONAL COURSEWORK.....	13
§4980.395 ADDITIONAL CONTINUING EDUCATION REQUIREMENT	13
§4980.40. QUALIFICATIONS	13
§4980.41. ELIGIBILITY TO SIT FOR LICENSING EXAMINATIONS; COURSEWORK OR TRAINING	15
§4980.42. TRAINEES' SERVICES	16
§4980.43. PROFESSIONAL EXPERIENCE; INTERNS OR TRAINEES	17
§4980.44. UNLICENSED INTERN; QUALIFICATIONS; NOTICE TO CLIENT OR PATIENT	19
§4980.45. EMPLOYMENT OR TERMINATION OF INTERNS, NOTIFICATION TO BOARD	20
§4980.46. FICTITIOUS BUSINESS NAMES	20
§4980.48. TRAINEES; NOTICE TO BOARD OF EMPLOYMENT OR TERMINATION OF EMPLOYMENT; NOTICE TO CLIENTS OF UNLICENSED STATUS; APPLICATION OF SECTION.....	20
§4980.50. EXAMINATION; ISSUANCE OF LICENSE; EXAMINATION RECORD RETENTION; SEVEN YEAR LIMITATION ON WRITTEN EXAMINATION.....	20
§4980.54. CONTINUING EDUCATION	21
§4980.55. STATEMENTS OF EXPERIENCE, EDUCATION, SPECIALTIES, ETC.....	23
§4980.57. CONTINUING EDUCATION FOR SPOUSAL OR PARTNER ABUSE	23
§4980.60. RULES AND REGULATIONS.....	23
§4980.70. ADDITIONAL PERSONNEL	23
§4980.80. RECIPROCITY; EQUIVALENT REQUIREMENTS; PAYMENT OF FEES; FURTHER CONDITIONS	23
§4980.90. EXAMINATION; PERSONS WITH EDUCATION AND EXPERIENCE WHILE RESIDING OUTSIDE OF CALIFORNIA	24
§4981. APPLICATION OF ARTICLE	25

ARTICLE 2. DENIAL, SUSPENSION, AND REVOCATION..... 25

§4982. UNPROFESSIONAL CONDUCT.....	25
§4982.05. ENFORCEMENT STATUTE OF LIMITATIONS	27
UNCODIFIED LAW RELATING TO SECTION 4982.05	28
§4982.1. MENTAL ILLNESS OR CHEMICAL DEPENDENCY; GROUNDS FOR REFUSAL TO LICENSE OR REGISTER	28
§4982.15. PLACING OF LICENSE OR REGISTRATION ON PROBATION; CIRCUMSTANCES.....	28
§4982.2. PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY; NOTICE; CONTENT; HEARING	28
§4982.25. DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION OF LICENSE OR REGISTRATION;	

	30
§4982.26. DECISION CONTAINING FINDING THAT LICENSEE OR REGISTRANT ENGAGED IN SEXUAL CONTACT WITH PATIENT OR FORMER PATIENT; ORDER OF REVOCATION.....	30
§4982.3. PROCEDURE	30
ARTICLE 3. PENALTIES	30
§4983. VIOLATION; MISDEMEANOR; PUNISHMENT.....	30
§4983.1. INJUNCTION	31
ARTICLE 4. REVENUE	31
§4984. EXPIRATION OF LICENSES; RENEWAL OF UNEXPIRED LICENSES	31
§4984.1. RENEWAL OF EXPIRED LICENSES.....	31
§4984.2. RENEWAL OF SUSPENDED LICENSE; EFFECT OF RENEWAL	31
§4984.3. REVOKED LICENSE; REINSTATEMENT AFTER EXPIRATION.....	31
§4984.4. TIME LIMIT FOR RENEWAL AFTER EXPIRATION; NEW LICENSE	32
§4984.5. REPORT AND PAYMENT OF REVENUE.....	32
§4984.6. BOARD TO BE APPROPRIATED WITH FUNDS; RECORD; SURPLUSES.....	32
§4984.7. FEE SCHEDULE.....	32
§4984.75 ADDITIONAL LICENSE RENEWAL ASSESSMENT FEE.....	33
§4984.8. INACTIVE LICENSE	33
§4984.9 LICENSEE OR REGISTRANT NAME CHANGE	34
ARTICLE 6. MARRIAGE AND FAMILY THERAPIST CORPORATIONS.....	34
§4987.5. DEFINITION.....	34
§4987.6. UNPROFESSIONAL CONDUCT	34
§4987.7. NAME	34
§4987.8. DIRECTORS, SHAREHOLDERS AND OFFICERS; NECESSITY OF LICENSE	34
§4988. INCOME FOR PROFESSIONAL SERVICES NOT TO ACCRUE TO DISQUALIFIED SHAREHOLDERS	34
§4988.1. CORPORATE UNPROFESSIONAL CONDUCT.....	35
§4988.2. RULES AND REGULATIONS.....	35
ARTICLE 7. REVIEW	35
§4989. POWERS AND DUTIES OF BOARD; DATE OF REVIEW	35
CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS.....	36
ARTICLE 1. GENERAL.....	36
4989.10. EDUCATIONAL PSYCHOLOGIST PRACTICE ACT.....	36
4989.12. ADMINISTRATION AND ENFORCEMENT OF CHAPTER.....	36
4989.14. SCOPE OF PRACTICE.....	36
4989.16. LICENSING EXCEPTIONS.....	36
4989.18. RULES OF PROFESSIONAL CONDUCT	37
ARTICLE 2. LICENSURE	37
4989.20. LICENSURE REQUIREMENTS.....	37
4989.22. EXAMINATION.....	37
4989.24. CONVICTION INVOLVING SEXUAL ABUSE OF CHILDREN.....	38
4989.26. GROUNDS FOR REFUSAL TO ISSUE LICENSE; MENTAL ILLNESS OR CHEMICAL	38
DEPENDENCY.....	38
4989.28. DENIAL OF APPLICATION FOR UNPROFESSIONAL CONDUCT	38
ARTICLE 3. RENEWAL AND CONTINUING EDUCATION	38
4989.30. EXPIRATION OF LICENSE	38
4989.32. RENEWAL OF UNEXPIRED LICENSE	38
4989.34. CONTINUING EDUCATION REQUIREMENTS	38
4989.36. RENEWAL OF EXPIRED LICENSE	39
4989.38. RENEWAL OF SUSPENDED LICENSE.....	39

4989.40. EXPIRATION AND REINSTATEMENT OF REVOKED LICENSE	39
4989.42. TIME LIMIT FOR RENEWAL AFTER EXPIRATION; NEW LICENSE	40
4989.44. INACTIVE LICENSE	40
ARTICLE 4. REGULATION	40
4989.46. NAME CHANGE REQUIREMENTS	40
4989.48. DISPLAY OF LICENSE	40
4989.50. NECESSITY OF LICENSE; UNAUTHORIZED REPRESENTATION AS A LICENSEE	40
4989.52. COMPENSATION IN RELATION TO PROFESSIONAL COUNSELING SERVICES	41
ARTICLE 5. ENFORCEMENT.....	41
4989.54. UNPROFESSIONAL CONDUCT	41
4989.56. REVOCATION OF LICENSE; USE OF DRUGS IN PRACTICE.....	43
4989.58. REVOCATION OF LICENSE DUE TO SEXUAL CONTACT WITH A CLIENT	43
4989.60. SUSPENDED OR REVOKED LICENSE; PROHIBITION OF LICENSE-RELATED AND OTHER ACTIVITIES ...	43
4989.62. CONDUCT OF DISCIPLINARY PROCEEDINGS	43
4989.64. ISSUANCE OF INJUNCTION OR OTHER ORDER TO RESTRAIN CONDUCT	43
4989.66. VIOLATION OF CHAPTER; MISDEMEANOR.....	43
ARTICLE 6. REVENUE.....	44
4989.68. FEE SCHEDULE	44
4989.70. REPORTING REVENUE TO CONTROLLER; DEPOSIT TO STATE TREASURY	44
CHAPTER 13.7. BOARD OF BEHAVIORAL SCIENCES.....	45
ARTICLE 1. ADMINISTRATION	45
4990. BOARD MEMBERS.....	45
4990.02. DEFINITION OF "BOARD"	45
4990.04. EXECUTIVE OFFICER	46
4990.06. EMPLOYEES	46
4990.08. RECORDS OF PROCEEDINGS, APPLICANTS AND LICENSEES	46
4990.10. RESEARCH, STUDIES AND RECOMMENDATIONS	46
4990.12. ADMINISTRATION AND ENFORCEMENT OF CHAPTERS; POWERS AND DUTIES OF BOARD AND EXECUTIVE OFFICER	46
4990.14. BOARD SEAL.....	47
4990.16. PROTECTION OF THE PUBLIC	47
4990.18. LEGISLATIVE INTENT; BOARD RESOURCES.....	47
4990.20. RULES AND REGULATIONS; ARTICLES OF INCORPORATION AND CORPORATE INSURANCE	47
4990.22. BEHAVIORAL SCIENCES FUND; REVENUE; SURPLUSES	47
4990.24. REVIEW OF POWERS AND DUTIES OF BOARD	48
4990.26. BOARD NAME	48
ARTICLE 2. DISCIPLINARY ACTIONS.....	48
4990.28. GROUNDS FOR REFUSAL TO ISSUE LICENSE OR REGISTRATION; MENTAL	48
ILLNESS OR CHEMICAL DEPENDENCY	48
4990.30. PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY	48
4990.32. ENFORCEMENT STATUTE OF LIMITATIONS	50
4990.34. PLACING LICENSE OR REGISTRATION ON PROBATION; MONITORING PROGRAM	50
4990.36. TRAINING OR EXAMINATION AFTER PROBATION OR SUSPENSION	51
4990.38. DISCIPLINARY ACTION BY ANOTHER LICENSING BOARD; GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION.....	51
4990.40. REVOCATION OF LICENSE OR REGISTRATION DUE TO SEXUAL CONTACT WITH A PATIENT	51
4990.42. CONDUCT OF PROCEEDINGS.....	51
CHAPTER 14. SOCIAL WORKERS	52
4991. CLINICAL SOCIAL WORKER PRACTICE ACT	52
4991.2. DEFINITION OF ACCREDITED SCHOOL OF SOCIAL WORK.....	52

ARTICLE 2. APPLICATION OF CHAPTER.....	52
§4992. LICENSE APPLICATION; FEES	52
§4992.1. ELIGIBILITY FOR EXAMINATION; EXAMINATION RECORD RETENTION; SEVEN YEAR LIMITATION ON WRITTEN EXAMINATION	52
§4992.3. UNPROFESSIONAL CONDUCT; EFFECT ON LICENSEE OR REGISTRANT	52
§4992.33. DECISION CONTAINING FINDING THAT LICENSEE OR REGISTRANT ENGAGED IN SEXUAL CONTACT WITH PATIENT OR FORMER PATIENT; ORDER OF REVOCATION.....	54
§4992.35. MENTAL ILLNESS OR CHEMICAL DEPENDENCY; GROUNDS FOR REFUSAL TO LICENSE OR REGISTER	54
§4992.36. DISCIPLINARY ACTION BY ANOTHER LICENSING BOARD; GROUND FOR APPLICATION DENIAL OR LICENSE OR REGISTRATION SUSPENSION OR REVOCATION	54
§4992.4. CONDUCT OF PROCEEDINGS	55
§4992.5. TIME AND PLACE OF EXAMINATIONS.....	55
§4992.7. FALSE STATEMENTS OR IMPERSONATION IN CONNECTION WITH APPLICATION OR EXAMINATION; MISDEMEANOR	55
§4992.8. LICENSEE OR REGISTRANT NAME CHANGE	55
ARTICLE 3. REVENUE.....	55
§4994. BEHAVIORAL SCIENCES FUND; EXPENDITURES	55
§4994.1. BEHAVIORAL SCIENCES FUND; REDUCTION OF FEES	55
ARTICLE 4. LICENSURE	56
§4996. NECESSITY OF LICENSE; UNAUTHORIZED REPRESENTATION AS LICENSEE; MISDEMEANOR	56
§4996.1. ISSUANCE OF LICENSE	56
§4996.2. QUALIFICATIONS OF LICENSES	56
§4996.3. APPLICATION AND EXAMINATION FEES; DEPOSIT.....	57
§4996.4. FEE FOR REEXAMINATION.....	57
§4996.5. SCOPE, FORM AND CONTENT OF LICENSE	57
§4996.6. RENEWAL AND DELINQUENCY FEES; RESTORATION OF DELINQUENT LICENSE; DUPLICATE REGISTRATION, LICENSE OR CERTIFICATE FEES; CERTIFICATE OR LETTER OF GOOD STANDING FEES.....	58
§4996.65 ADDITIONAL LICENSE RENEWAL ASSESSMENT FEE.....	58
§4996.7. DISPLAY OF LICENSE.....	59
§4996.8. DISPLAY OF CURRENT RENEWAL RECEIPT.....	59
§4996.9. CLINICAL SOCIAL WORK AND PSYCHOTHERAPY DEFINED	59
§4996.10. APPLICATION OF ARTICLE ONLY TO CLINICAL SOCIAL WORKERS.....	59
§4996.11. SUSPENSION OR REVOCATION OF LICENSE; GROUNDS; CONDUCT OF PROCEEDINGS	59
§4996.12. VIOLATIONS; PENALTIES.....	59
§4996.13. OTHER PROFESSIONAL GROUPS; WORK OF PSYCHOSOCIAL NATURE; IMPERMISSIBLE REPRESENTATIONS	59
§4996.14. EMPLOYEES OF CERTAIN ORGANIZATIONS; ACTIVITIES OF PSYCHOSOCIAL NATURE OR USE OF OFFICIAL TITLE OF POSITION	60
§4996.15. PERFORMANCE OF PSYCHOSOCIAL WORK BY PERSONS IN ACADEMIC INSTITUTIONS, GOVERNMENT AGENCIES OR NONPROFIT ORGANIZATIONS; SOCIAL WORK INTERN	60
§4996.16. PERSONS FROM OUT OF STATE; CLINICAL SOCIAL WORK SERVICES IN THIS STATE	61
§4996.17. EXPERIENCE GAINED OUTSIDE CALIFORNIA; USE TOWARDS LICENSING REQUIREMENTS	61
§4996.18. ASSOCIATE CLINICAL SOCIAL WORKER; REGISTRATION; APPLICATION; EXPIRATION AND RENEWAL; EMPLOYMENT; SUPERVISION; CREDIT	62
§4996.19. LICENSED CLINICAL SOCIAL WORKERS' CORPORATION; APPLICATION OF ARTICLE	63
§4996.20. SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA PRIOR TO JANUARY 1, 1999	64
§4996.21. SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 1999	64
§4996.22. CONTINUING EDUCATION EFFECTIVE JANUARY 1, 2004	66
§4996.23 SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 2002.....	67
§4996.25 ADDITIONAL COURSEWORK.....	69
§4996.26 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS	69
§4997. INACTIVE LICENSE	70
ARTICLE 5. CLINICAL SOCIAL WORKERS CORPORATIONS.....	70

§4998. DEFINITION; RIGHT TO PRACTICE CLINICAL SOCIAL WORK; BOARD AS GOVERNMENTAL AGENCY.....	70
§4998.1. UNPROFESSIONAL CONDUCT	70
§4998.2. NAME.....	70
§4998.3. DIRECTORS, SHAREHOLDERS AND OFFICERS; LICENSE	71
§4998.4. INCOME ATTRIBUTABLE TO SHAREHOLDER WHO IS DISQUALIFIED PERSON	71
§4998.5. CORPORATE UNPROFESSIONAL CONDUCT.....	71
CALIFORNIA CODE OF REGULATIONS	72
ARTICLE 1. GENERAL PROVISIONS	72
§1800. DECLARATORY DECISIONS	72
§1802. DEFINITIONS	72
§1803. DELEGATION OF CERTAIN FUNCTIONS.....	72
§1804. FILING OF ADDRESSES	72
§1805. APPLICATIONS.....	73
§1805.1. PERMIT PROCESSING TIMES.....	73
§1806. ABANDONMENT OF APPLICATION	74
§1807. HUMAN SEXUALITY TRAINING.....	74
§1807.2. CHILD ABUSE ASSESSMENT TRAINING REQUIREMENTS.....	75
§1810. ALCOHOLISM AND OTHER CHEMICAL SUBSTANCE DEPENDENCY TRAINING.....	75
§1811. USE OF LICENSE NUMBER IN DIRECTORIES AND ADVERTISEMENTS	76
§1812. SUBSTANTIAL RELATIONSHIP CRITERIA	77
§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE.....	77
§1814. CRITERIA FOR REHABILITATION-SUSPENSIONS OR REVOCATIONS.....	78
ARTICLE 2. FEES.....	78
§1816. RENEWAL FEES	78
§1816.1. INITIAL LICENSE AND REGISTRATION FEES	79
§1816.2. WRITTEN EXAMINATION AND RE-EXAMINATION FEES.....	79
§1816.3. EXAMINATION RESCORING FEES	80
§1816.4. EXAMINATION APPLICATION FEES	80
§1816.5. REPLACEMENT AND CERTIFICATION FEES	80
§1816.6. INACTIVE LICENSE FEES.....	81
§1816.7. DELINQUENT LICENSE FEES.....	81
§1819.1. CONTINUING EDUCATION PROVIDER FEES.....	82
ARTICLE 4. MARRIAGE AND FAMILY THERAPIST	82
§1829. EXAMINATIONS.....	82
§1832. EQUIVALENT ACCREDITING AGENCIES.....	82
§1833. EXPERIENCE	83
§1833.1. REQUIREMENTS FOR SUPERVISORS	85
§1833.2. SUPERVISION OF EXPERIENCE GAINED OUTSIDE OF CALIFORNIA.....	86
§1833.3. REEXAMINATION	87
§1845. UNPROFESSIONAL CONDUCT.....	87
§1846. MARRIAGE AND FAMILY THERAPIST INTERNS.....	88
ARTICLE 4.5. PROFESSIONAL CORPORATIONS.....	88
§1850.6. NAME OF CORPORATION.....	88
§1850.7. SHARES: OWNERSHIP AND TRANSFER.....	88
ARTICLE 5. LICENSED EDUCATIONAL PSYCHOLOGISTS	89
§1854. EQUIVALENT DEGREES.....	89
§1855. EQUIVALENT EXPERIENCE IN PUPIL PERSONNEL SERVICES	89
§1856. EXPERIENCE EQUIVALENT TO THREE (3) YEARS FULL-TIME EXPERIENCE AS CREDENTIALLED SCHOOL PSYCHOLOGIST	90
§1857. EXPERIENCE EQUIVALENT TO ONE YEAR OF SUPERVISED PROFESSIONAL EXPERIENCE	90
§1858. UNPROFESSIONAL CONDUCT.....	91

ARTICLE 6. LICENSED CLINICAL SOCIAL WORKERS	92
§1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS	92
§1870.1. SUPERVISORY PLAN	94
§1874. DEFINITION OF ACCEPTABLE MENTAL HEALTH PROFESSIONALS	94
§1877. EXAMINATIONS	94
§1880. UNLICENSED ASSISTANTS	95
§1881. UNPROFESSIONAL CONDUCT	95
ARTICLE 7. CITATIONS AND FINES.....	96
§1886. AUTHORITY TO ISSUE CITATIONS AND FINES	96
§1886.10. CITATIONS FOR UNLICENSED PRACTICE	96
§1886.20. CITATION FORMAT	97
§1886.30. CITATION FACTORS	97
§1886.40. AMOUNT OF FINES	97
§1886.50. EXCEPTIONS	98
§1886.60. COMPLIANCE WITH CITATION/ORDER OF ABATEMENT	98
§1886.80. DISCONNECTION OF TELEPHONE SERVICE	99
ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS AND LICENSED CLINICAL SOCIAL WORKERS.....	100
§1887. DEFINITIONS	100
§1887.1. LICENSE RENEWAL REQUIREMENTS	100
§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS	100
§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS	101
§1887.4. CONTINUING EDUCATION COURSE CONTENT	102
§1887.5. HOURS OF CONTINUING EDUCATION CREDIT	102
§1887.6. CONTINUING EDUCATION PROVIDERS	103
§1887.7. BOARD-APPROVED PROVIDERS	103
§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS	103
§1887.9. COURSE ADVERTISEMENTS	104
§1887.10. COURSE INSTRUCTOR QUALIFICATIONS	104
§1887.11. RECORDS OF COURSE COMPLETION	105
§1887.12. LICENSEE AND PROVIDER COURSE RECORDS	105
ARTICLE 9. DISCIPLINARY GUIDELINES	106
§1888. DISCIPLINARY GUIDELINES	106
ARTICLE 10. GROUP ADVERTISING AND REFERRAL SERVICES FOR MARRIAGE AND FAMILY THERAPIST	106
§1889. DEFINITIONS	106
§1889.1. REGISTRATION	106
§1889.2. REVOCATION OR DENIAL OF REGISTRATION	107
§1889.3. ADVERTISING AND REFERRAL GUIDELINES	108
MISCELLANEOUS CODE SECTIONS	109
§28. TRAINING FOR CHILD ABUSE ASSESSMENT AND REPORTING; LICENSING PREREQUISITES	109
§29. CHEMICAL DEPENDENCY AND EARLY INTERVENTION TRAINING; CONTINUING EDUCATION REQUIREMENTS	110
§32. LEGISLATIVE FINDINGS; AIDS TRAINING IN CONTINUING EDUCATION REQUIREMENTS FOR SPECIFIED LICENSES	110
§125.3. INVESTIGATION AND ENFORCEMENT COSTS; PAYMENT BY LICENTIATE	111
§480. ACTS DISQUALIFYING APPLICANT	111
§485. PROCEDURE BY BOARD UPON DENIAL OF APPLICATION FOR LICENSE	112
§651. PUBLIC COMMUNICATION CONTAINING FALSE, FRAUDULANT, MISLEADING, OR DECEPTIVE STATEMENT, CLAIM, OR IMAGE; ADVERTISEMENTS; PENALTY	112
§726. SEXUAL ABUSE, MISCONDUCT, OR RELATIONS WITH A PATIENT	117
§727. EVIDENCE	117

§728. PRIOR SEXUAL CONTACT BETWEEN PSYCHOTHERAPIST AND PATIENT; PSYCHOTHERAPIST OR EMPLOYER PROVIDING AND DISCUSSING BROCHURE; FAILURE TO COMPLY WITH SECTION; DEFINITIONS ..	117
§729. SEXUAL EXPLOITATION BY PHYSICIANS, SURGEONS, PSYCHOTHERAPISTS, OR ALCOHOL AND DRUG ABUSE COUNSELORS	118
§820. EXAMINATION; REPORT	119
§2290.5. TELEMEDICINE; INFORMED CONSENT PROCEDURES; WRITTEN CONSENT STATEMENT; COMPLIANCE; APPLICATION OF SECTION.....	119
§11166. CHILD ABUSE AND NEGLECT REPORTING; DUTY; TIME.....	121
§123110. INSPECTION AND COPYING; VERIFICATION OF IDENTITY; RETENTION AND QUALITY OF RECORDS; LIABILITY FOR DISCLOSURE; VIOLATIONS; PENALTIES	124
§15630. ELDER ABUSE REPORTING	125
INDEX.....	129

BUSINESS AND PROFESSIONS CODE OF CALIFORNIA

CHAPTER 13. MARRIAGE AND FAMILY THERAPISTS

ARTICLE 1. REGULATION

§4980. NECESSITY OF LICENSE

(a) Many California families and many individual Californians are experiencing difficulty and distress, and are in need of wise, competent, caring, compassionate, and effective counseling in order to enable them to improve and maintain healthy family relationships.

Healthy individuals and healthy families and healthy relationships are inherently beneficial and crucial to a healthy society, and are our most precious and valuable natural resource. Marriage and family therapists provide a crucial support for the well-being of the people and the State of California.

(b) No person may engage in the practice of marriage and family therapy as defined by Section 4980.02, unless he or she holds a valid license as a marriage and family therapist, or unless he or she is specifically exempted from that requirement, nor may any person advertise himself or herself as performing the services of a marriage, family, child, domestic, or marital consultant, or in any way use these or any similar titles, including the letters "M.F.T." or "M.F.C.C.," or other name, word initial, or symbol in connection with or following his or her name to imply that he or she performs these services without a license as provided by this chapter. Persons licensed under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2, or under Chapter 6.6 (commencing with Section 2900) may engage in such practice or advertise that they practice marriage and family therapy but may not advertise that they hold the marriage and family therapist's license.

§4980.01. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES

(a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) This chapter shall not apply to an employee of a governmental entity or of a school, college, or university, or of an institution both nonprofit and charitable if his or her practice is performed solely under the supervision of the entity, school, or organization by which he or she is employed, and if he or she performs those functions as part of the position for which he or she is employed.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c) all persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

§4980.02. PRACTICE OF MARRIAGE, FAMILY AND CHILD COUNSELING; APPLICATION OF PRINCIPLES AND METHODS

For the purposes of this chapter, the practice of marriage and family therapy shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling.

The application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.37, 4980.40, and 4980.41.

§4980.03. BOARD; INTERN; TRAINEE; ADVERTISE

- (a) "Board," as used in this chapter, means the Board of Behavioral Sciences.
- (b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the board.
- (c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Section 4980.40, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.
- (d) "Applicant" as used in this chapter, means an unlicensed person who has completed a master's or doctoral degree program, as specified in Section 4980.40, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements for licensure as specified in this chapter, is no longer registered with the board as an intern, and is currently in the examination process.
- (e) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.
- (f) "Experience," as used in this chapter, means experience in interpersonal relationships, psychotherapy, marriage and family therapy, and professional enrichment activities that satisfies the requirement for licensure as a marriage and family therapist pursuant to Section 4980.40.
- (g) "Supervisor," as used in this chapter, means an individual who meets all of the following requirements:
 - (1) Has been licensed for at least two years as a marriage and family therapist, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.
 - (2) Has not provided therapeutic services to the trainee or intern.
 - (3) Has been licensed or certified for at least two years prior to acting as a supervisor.
 - (4) Has a current and valid license that is not under suspension or probation.

(5) Complies with supervision requirements established by board regulations.

(h) "Professional enrichment activities," as used in this chapter, include both of the following:

(1) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor.

(2) Participation by the applicant in group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.

§4980.07. ADMINISTRATION OF CHAPTER

The board shall administer the provisions of this chapter.

§4980.08. LICENSE TITLE NAME CHANGE

(a) The title "licensed marriage, family and child counselor" or "marriage, family and child counselor" is hereby renamed "licensed marriage and family therapist" or "marriage and family therapist," respectively. Any reference in any statute or regulation to a "licensed marriage, family and child counselor" or "marriage, family and child counselor" shall be deemed a reference to a "licensed marriage and family therapist" or "marriage and family therapist".

(b) Nothing in this section shall be construed to expand or constrict the scope of practice of a person licensed pursuant to this chapter.

(c) This section shall become operative July 1, 1999.

§4980.10. ENGAGING IN PRACTICE

A person engages in the practice of marriage and family therapy who performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.

§4980.30. APPLICATION FOR LICENSE; PAYMENT OF FEE

Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage and family therapy services shall apply to the board for a license and shall pay the license fee required by this chapter.

§4980.31. DISPLAY OF LICENSE

A licensee shall display his or her license in a conspicuous place in the licensee's primary place of practice.

§4980.34. LEGISLATIVE INTENT

It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

(a) The licensing of marriage and family therapists, clinical social workers, and educational psychologists.

(b) The development and administration of licensing examinations and examination procedures, as specified, consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(d) Consumer education.

§4980.35. OBLIGATION TO PROVIDE COMPLETE AND ACCURATE APPLICATION; DUTIES OF BOARD

(a) The Legislature acknowledges that the basic obligation to provide a complete and accurate application for a marriage and family therapist license lies with the applicant. At the same time, the Legislature recognizes that an effort should be made by the board to ensure that persons who enter degree programs and supervisorial training settings that meet the requirements of this chapter are enabled to discern the requirements for licensing and to take the examination when they have completed their educational and experience requirements.

(b) In order that the board, the educational institutions, and the supervisors who monitor the education and experience of applicants for licensure may develop greater cooperation, the board shall do all of the following:

(1) Apply a portion of its limited resources specifically to the task of communicating information about its activities, the requirements and qualifications for licensure, and the practice of marriage and family therapy to the relevant educational institutions, supervisors, professional associations, applicants, trainees, interns, and the consuming public.

(2) Develop policies and procedures to assist educational institutions in meeting the curricula requirements of Section 4980.40 and any regulations adopted pursuant to that section, so that those educational institutions may better provide assurance to their students that the curriculum offered to fulfill the educational requirements for licensure will meet those requirements at the time of the student's application for licensure.

(3) Notify applicants in the application procedure when applications are incomplete, inaccurate, or deficient, and inform applicants of any remediation, reconsideration, or appeal procedures that may be applicable.

(4) Undertake, or cause to be undertaken, further comprehensive review, in consultation with educational institutions, professional associations, supervisors, interns, and trainees, of the supervision of interns and trainees, which shall include, but not be limited to, the following, and shall propose regulations regarding the supervision of interns and trainees which may include, but not be limited to, the following:

(A) Supervisor qualifications.

(B) Continuing education requirements of supervisors.

(C) Registration or licensing of supervisors, or both.

(D) Responsibilities of supervisors in general.

(E) The board's authority in cases of noncompliance or negligence by supervisors.

(F) The intern's and trainee's need for guidance in selecting well-balanced and high quality professional training opportunities within his or her community.

(G) The role of the supervisor in advising and encouraging his or her intern or trainee regarding the necessity or value and appropriateness of the intern or trainee engaging in personal psychotherapy, so as to enable the intern or trainee to become a more competent marriage and family therapist.

§4980.37. DEGREE PROGRAM; COURSE OF STUDY AND PROFESSIONAL TRAINING

(a) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program which meets the educational qualifications for licensure shall include all of the following:

- (1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.
- (2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.
- (3) Train students specifically in the application of marriage and family relationship counseling principles and methods.
- (4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.
- (5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.
- (6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.
- (7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(b) Educational institutions are encouraged to design the practicum required by subdivision (b) of Section 4980.40 to include marriage and family therapy experience in low-income and multicultural mental health settings.

§4980.38. NOTIFICATION TO STUDENTS OF DESIGN OF DEGREE PROGRAM; CERTIFICATION OF FULFILLMENT OF REQUIREMENTS

(a) Each educational institution preparing applicants to qualify for licensure shall notify each of its students by means of its public documents or otherwise in writing that its degree program is designed to meet the requirements of Sections 4980.37 and 4980.40, and shall certify to the board that it has so notified its students.

(b) In addition to all of the other requirements for licensure, each applicant shall submit to the board a certification by the chief academic officer, or his or her designee, of the applicant's educational institution that the applicant has fulfilled the requirements enumerated in Sections 4980.37 and 4980.40, and subdivisions (d) and (e) of Section 4980.41.

(c) An applicant for an intern registration who has completed a program to update his or her degree in accordance with paragraph (1) of subdivision (i) of Section 4980.40 shall furnish to the board certification by the chief academic officer of a school, college, or university accredited by the Western Association of Schools and Colleges, or from a school, college, or university meeting accreditation standards comparable to those of the Western Association of Schools and Colleges, that the applicant has successfully completed all academic work necessary to comply with the current educational requirements for licensure as a marriage and family therapist.

§4980.39. ADDITIONAL COURSEWORK

(a) Any applicant for licensure as a marriage and family therapist who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

§4980.395 ADDITIONAL CONTINUING EDUCATION REQUIREMENT

(a) A licensee who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period after the operative date of this section and shall submit to the board evidence, acceptable to the board, of the person's satisfactory completion of the course.

(b) The course shall include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) A person seeking to meet the requirements of subdivision (a) of this section may submit to the board a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(e) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4980.54.

(f) This section shall become operative on January 1, 2005.

§4980.40. QUALIFICATIONS

To qualify for a license, an applicant shall have all the following qualifications:

(a) Applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this subdivision, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists

and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children. The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(c) As an alternative to meeting the qualifications specified in subdivision (a), the board shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.

(e) All applicants shall be at least 18 years of age.

(f) All applicants shall have at least two years experience that meet the requirements of Section 4980.43.

(g) The applicant shall pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(i) (1) An applicant applying for intern registration who, prior to December 31, 1987, met the qualifications for registration, but who failed to apply or qualify for intern registration may be granted an intern registration if the applicant meets all of the following criteria:

(A) The applicant possesses a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, counseling with an emphasis in marriage, family, and child counseling, or social work with an emphasis in clinical social work obtained from a school, college, or university currently conferring that degree that, at the time the degree was conferred, was accredited by the Western Association of Schools and Colleges, and where the degree conferred was, at the time it was conferred, specifically intended to satisfy the educational requirements for licensure by the Board of Behavioral Sciences.

(B) The applicant's degree and the course content of the instruction underlying that degree have been evaluated by the chief academic officer of a school, college, or university accredited by the Western Association of Schools and Colleges to determine the extent to which the applicant's degree program satisfies the current educational requirements for licensure, and the chief academic officer certifies to the board the amount and type of instruction needed to meet the current requirements.

(C) The applicant completes a plan of instruction that has been approved by the board at a school, college, or university accredited by the Western Association of Schools and Colleges that the chief academic officer of the educational institution has, pursuant to subparagraph (B), certified will meet the current educational requirements when considered in conjunction with the original degree.

(2) A person applying under this subdivision shall be considered a trainee, as that term is defined in Section 4980.03, once he or she is enrolled to complete the additional coursework necessary to meet the current educational requirements for licensure.

(j) An applicant for licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a qualifying degree that is equivalent to a degree earned from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau of Private Postsecondary and Vocational Education. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and shall provide any other documentation the board deems necessary.

§4980.41. ELIGIBILITY TO SIT FOR LICENSING EXAMINATIONS; COURSEWORK OR TRAINING

All applicants for licensure shall complete the following coursework or training in order to be eligible to sit for the licensing examinations as specified in subdivision (g) of Section 4980.40:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage and family therapists, which shall include, but not be limited to, the following areas of study:

(1) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.

(2) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including family law.

(3) The current legal patterns and trends in the mental health profession.

(4) The psychotherapist/patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(5) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.40.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(d) For persons who began graduate study on or after January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(e) For persons who began graduate study during the period commencing on January 1, 1995, and ending on December 31, 2003, a master's or doctor's degree qualifying for licensure shall include coursework in spousal or partner abuse assessment, detection, and intervention. For persons who began graduate study on or after January 1, 2004, a master's or doctor's degree qualifying for licensure shall include a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(f) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychological testing. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.40.

(g) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychopharmacology. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.40.

(h) The requirements added by subdivisions (f) and (g) are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended in any way to expand or restrict the scope of licensure for marriage and family therapists.

§4980.42. TRAINEES' SERVICES

(a) Trainees performing services in any work setting specified in subdivision (e) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated by the title "trainee." Trainees may gain hours of experience outside the required practicum. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

(b) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party's responsibilities, including the methods by which

supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student's performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

§4980.43. PROFESSIONAL EXPERIENCE; INTERNS OR TRAINEES

(a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

- (1) A minimum of 3,000 hours completed during a period of at least 104 weeks.
 - (2) Not more than 40 hours in any seven consecutive days.
 - (3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.
 - (4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:
 - (A) Not more than 750 hours of counseling and direct supervisor contact
 - (B) Not more than 250 hours of professional enrichment activities excluding personal psychotherapy.
 - (C) Not more than 100 hours of personal psychotherapy. The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.
 - (5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.
 - (6) No hours of experience gained more than six years prior to the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.
 - (7) Not more than 1000 hours of experience for direct supervisor contact and professional activities.
 - (8) Not more than 500 hours of experience providing group therapy or group counseling.
 - (9) Not more than 250 hours of experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.
 - (10) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.
 - (11) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.
- (b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.

(2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons.

(4) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee enumerated in subdivision (f) of Section 4980.40. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in the employer's business.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

§4980.44. UNLICENSED INTERN; QUALIFICATIONS; NOTICE TO CLIENT OR PATIENT

(a) An unlicensed marriage and family therapist intern employed under this chapter shall:

(1) Have earned at least a master's degree as specified in Section 4980.40.

(2) Be registered with the board prior to the intern performing any duties, except as otherwise provided in subdivision (e) of Section 4980.43.

(3) File for renewal of registration annually for a maximum of five years after initial registration with the board. Renewal of registration shall include filing an application for renewal, paying a renewal fee of seventy-five dollars (\$75), and notifying the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the issuance of the initial registration or the registrant's last renewal.

(4) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

(5) Continued employment as an unlicensed marriage and family therapist intern shall cease after six years unless the requirements of subdivision (b) are met. No registration shall be renewed or reinstated beyond the six years from initial issuance regardless of whether it has been revoked.

(b) When no further renewals are possible, an applicant may apply for and obtain new intern registration status if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

§4980.45. EMPLOYMENT OR TERMINATION OF INTERNS, NOTIFICATION TO BOARD

(a) A licensed professional in private practice who is a marriage and family therapist, a psychologist, a clinical social worker, a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician who has completed a residency in psychiatry and who is described in subdivision (f) of Section 4980.40 may supervise or employ, at any one time, no more than two unlicensed marriage and family therapist registered interns in that private practice.

(b) A marriage and family therapy corporation may employ, at any one time, no more than two registered interns for each employee or shareholder who is qualified to provide supervision pursuant to subdivision (f) of Section 4980.40. In no event shall any corporation employ, at any one time, more than 10 registered interns. In no event shall any supervisor supervise, at any one time, more than two registered interns. Persons who supervise interns shall be employed full time by the professional corporation and shall be actively engaged in performing professional services at and for the professional corporation. Employment and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

§4980.46. FICTITIOUS BUSINESS NAMES

Any licensed marriage and family therapist who conducts a private practice under a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

§4980.48. TRAINEES; NOTICE TO BOARD OF EMPLOYMENT OR TERMINATION OF EMPLOYMENT; NOTICE TO CLIENTS OF UNLICENSED STATUS; APPLICATION OF SECTION

A trainee shall inform each client or patient, prior to performing any professional services, that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.

§4980.50. EXAMINATION; ISSUANCE OF LICENSE; EXAMINATION RECORD RETENTION; SEVEN YEAR LIMITATION ON WRITTEN EXAMINATION

(a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (g) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.

§4980.54. CONTINUING EDUCATION

(a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (g) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) (1) Except as provided in subdivision (e), on and after January 1, 2000, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(2) For those persons renewing during 1999, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of marriage and family therapy, as determined by the board. The coursework of continuing education described in this paragraph may be

taken on or after the effective date of the continuing education regulations adopted by the board pursuant to the other provisions of this section.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.40. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional marriage and family therapist association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association, approved by the board.

(3) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(g) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(h) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(i) On and after January 1, 1997, the board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(j) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

§4980.55. STATEMENTS OF EXPERIENCE, EDUCATION, SPECIALTIES, ETC.

As a model for all therapeutic professions, and to acknowledge respect and regard for the consuming public, all marriage and family therapists are encouraged to provide to each client, at an appropriate time and within the context of the psychotherapeutic relationship, an accurate and informative statement of the therapist's experience, education, specialties, professional orientation, and any other information deemed appropriate by the licensee.

§4980.57. CONTINUING EDUCATION FOR SPOUSAL OR PARTNER ABUSE

(a) The board shall require a licensee who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement.

(b) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required under paragraph (1) of subdivision (c) of Section 4980.54.

(c) This section shall become operative on January 1, 2004.

§4980.60. RULES AND REGULATIONS

(a) The board may adopt those rules and regulations as may be necessary to enable it to carry into effect the provisions of this chapter. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board may, by rules or regulations, adopt, amend, or repeal rules of advertising and professional conduct appropriate to the establishment and maintenance of a high standard of integrity in the profession, provided that the rules or regulations are not inconsistent with Section 4982. Every person who holds a license to practice marriage and family therapy shall be governed by the rules of professional conduct.

§4980.70. ADDITIONAL PERSONNEL

Except as provided by Section 159.5, the board may employ whatever additional personnel is necessary to carry out the provisions of this chapter.

§4980.80. RECIPROCITY; EQUIVALENT REQUIREMENTS; PAYMENT OF FEES; FURTHER CONDITIONS

The board may issue a license to any person who, at the time of application, has held for at least two years a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if the education and supervised experience requirements are substantially the equivalent of this chapter and the person successfully completes the board administered licensing examinations as specified by subdivision (g) of Section 4980.40 and pays the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25 and any regulations promulgated thereunder.

(d) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(e) (1) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(2) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(f) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(g) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(h) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

§4980.90. EXAMINATION; PERSONS WITH EDUCATION AND EXPERIENCE WHILE RESIDING OUTSIDE OF CALIFORNIA

(a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(b) Education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(B) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(6) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant has been granted a degree in a single integrated program primarily designed to train marriage, family, and child counselors and if the applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title and number of units in the degree program need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the number of units required by subdivision (a) of Section 4980.40, the board may, in its discretion, accept the applicant's education as substantially equivalent if the applicant's degree otherwise complies with this section and the applicant completes the units required by subdivision (a) of Section 4980.40.

§4981. APPLICATION OF ARTICLE

This article applies to licenses to engage in the business of marriage and family therapy, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the board shall have all powers provided in this article not inconsistent with this chapter.

ARTICLE 2. DENIAL, SUSPENSION, AND REVOCATION

§4982. UNPROFESSIONAL CONDUCT

The board may refuse to issue any registration or license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty

and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or

otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern under one's supervision or control to perform, or permitting the trainee or registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

§4982.05. ENFORCEMENT STATUTE OF LIMITATIONS

(a) Except as provided in subdivisions (b), (c), and (e) any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action, or within 10 years after the act or omission alleged as the grounds for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the

board due to an ongoing criminal investigation.

(g) For purposes of this section, “discovers” means the later of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

- (1) The date the board received a complaint or report describing the act or omission.
- (2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.
- (3) The date the board receives from the complainant a written release of information pertaining to the complainant’s diagnosis and treatment.

UNCODIFIED LAW RELATING TO SECTION 4982.05

This act shall apply to all accusations filed on or after January 1, 2000.

§4982.1. MENTAL ILLNESS OR CHEMICAL DEPENDENCY; GROUNDS FOR REFUSAL TO LICENSE OR REGISTER

The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.

§4982.15. PLACING OF LICENSE OR REGISTRATION ON PROBATION; CIRCUMSTANCES

- (a) The board may place a license or registration on probation under the following circumstances:
- (1) In lieu of, or in addition to, any order of the board suspending or revoking the license or registration of any licensee or intern.
 - (2) Upon the issuance of a license to an individual who has been guilty of unprofessional conduct, but who had otherwise completed all education and training and experience required for licensure.
 - (3) As a condition upon the reissuance or reinstatement of any license that has been suspended or revoked by the board.
- (b) The board may adopt regulations establishing a monitoring program to ensure compliance with any terms or conditions of probation imposed by the board pursuant to subdivision (a). The cost of probation or monitoring may be ordered to be paid by the licensee, registrant, or applicant.
- (c) The board, in its discretion, may require any licensee or registrant who has been placed on probation, or whose license or registration has been suspended, to obtain additional professional training, and to pass an examination upon completion of that training, and to pay any necessary examination fee. The examination may be written, oral, or a practical or clinical examination.

§4982.2. PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY; NOTICE; CONTENT; HEARING

(a) A licensed marriage and family therapist, licensed clinical social worker, or educational psychologist whose license has been revoked or suspended or who has been placed on probation may petition the board for

reinstatement or modification of penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering the disciplinary action, or if the order of the board, or any portion of it, is stayed by the board itself, or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) At least three years for reinstatement of a license that was revoked for unprofessional conduct, except that the board may, in its sole discretion at the time of adoption, specify in its order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of any probation period of three years, or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

(b) The petition may be heard by the board itself, or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code. The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition. The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time his or her license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

(c) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate.

(d) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4982.15. Where a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board.

(e) The board may take action with respect to the proposed decision and petition as it deems appropriate.

(f) The petition shall be on a form provided by the board, and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order.

(g) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.

(h) The petition shall be verified by the petitioner, who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.

(i) The board may delegate to its executive officer authority to order investigation of the contents of the petition, but in no case, may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.

(j) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

(k) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole, or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(l) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

§4982.25. DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION OF LICENSE OR REGISTRATION; GROUNDS

The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency, on a license, certificate, or registration to practice marriage and family therapy, or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

§4982.26. DECISION CONTAINING FINDING THAT LICENSEE OR REGISTRANT ENGAGED IN SEXUAL CONTACT WITH PATIENT OR FORMER PATIENT; ORDER OF REVOCATION

The board shall revoke any license issued under this chapter upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729, when that act is with a patient, or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

§4982.3. PROCEDURE

The proceedings conducted under this article shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

ARTICLE 3. PENALTIES

§4983. VIOLATION; MISDEMEANOR; PUNISHMENT

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred

dollars (\$2,500), or by both.

§4983.1. INJUNCTION

In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the board, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

ARTICLE 4. REVENUE

§4984. EXPIRATION OF LICENSES; RENEWAL OF UNEXPIRED LICENSES

(a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(b) To renew an unexpired license, the licensee, on or before the expiration date of the license, shall do all of the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4980.54.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

§4984.1. RENEWAL OF EXPIRED LICENSES

A license that has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter.

§4984.2. RENEWAL OF SUSPENDED LICENSE; EFFECT OF RENEWAL

A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

§4984.3. REVOKED LICENSE; REINSTATEMENT AFTER EXPIRATION

A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee shall, as a condition precedent to its reinstatement, pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

§4984.4. TIME LIMIT FOR RENEWAL AFTER EXPIRATION; NEW LICENSE

A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the licensee may apply for and obtain a new license if:

- (a) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.
- (b) He or she pays the fees that would be required if he or she were applying for a license for the first time.
- (c) He or she takes and passes the current licensing examinations as specified in subdivision (g) of Section 4980.40.

§4984.5. REPORT AND PAYMENT OF REVENUE

The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

§4984.6. BOARD TO BE APPROPRIATED WITH FUNDS; RECORD; SURPLUSES

- (a) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.
- (b) The board shall keep any records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.
- (c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

§4984.7. FEE SCHEDULE

The amount of the fees prescribed by this chapter that relate to licensing of persons to engage in the business of marriage and family therapy is that established by the following schedule:

- (a) The fee for applications for examination received on or after January 1, 1987, shall be one hundred dollars (\$100).
- (b) The fee for issuance of the initial license shall be a maximum of one hundred eighty dollars (\$180).
- (c) For those persons whose license expires on or after January 1, 1996, the renewal fee shall be a maximum of one hundred eighty dollars (\$180).

(d) The delinquency fee shall be ninety dollars (\$90). Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.

(e) For those persons registering as interns on or after January 1, 1996, the registration fee shall be seventy-five dollars (\$75).

(f) For those persons whose registration as an intern expires on or after January 1, 1996, the renewal fee shall be seventy-five dollars (\$75).

(g) The standard written examination fee shall be one hundred dollars (\$100). After successfully passing the standard written examination, each applicant for the clinical vignette written examination shall submit one hundred dollars (\$100). Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid. Effective January 1, 2005, the examination fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(h) An applicant who fails any standard or clinical vignette written examination may within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of one hundred dollars (\$100) for the standard written reexamination and one hundred dollars (\$100) for the clinical vignette written reexamination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

(i) The fee for rescoring any written examination shall be twenty dollars (\$20).

(j) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).

(k) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

§4984.75 ADDITIONAL LICENSE RENEWAL ASSESSMENT FEE

In addition to the fees charged pursuant to Section 4984.7 for the biennial renewal of a license pursuant to Section 4984, the board shall collect an additional fee of ten dollars (\$10) at the time of renewal. The board shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

§4984.8. INACTIVE LICENSE

A licensed marriage and family therapist may apply to the board to request that his or her license be placed on inactive status. A licensee who holds an inactive license shall pay a biennial fee of half of the active renewal fee and shall be exempt from continuing education requirements specified in Section 4980.54, but shall otherwise be subject to this chapter and shall not engage in the practice of marriage and family therapy in this state. A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice marriage and family therapy placed on active status. A licensee requesting his or her license to be placed on active status at any time between a renewal cycle shall pay the remaining half of the renewal fee. A licensee requesting to reactivate from an inactive status whose

license will expire less than one year from the date of the request shall be required to complete 18 hours of continuing education for license renewal. A licensee requesting to reactivate from an inactive status whose license will expire more than one year from the date of the request shall be required to complete 36 hours of continuing education for license renewal.

§4984.9 LICENSEE OR REGISTRANT NAME CHANGE

A licensee or registrant shall give written notice to the board of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

ARTICLE 6. MARRIAGE AND FAMILY THERAPIST CORPORATIONS

§4987.5. DEFINITION

A marriage and family therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are marriage and family therapists, physicians and surgeons, psychologists, licensed clinical social workers, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and any other statute or regulation pertaining to that corporation and the conduct of its affairs. With respect to a marriage and family therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

§4987.6. UNPROFESSIONAL CONDUCT

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act (Part 4(commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or any regulations duly adopted under those laws.

§4987.7. NAME

The name of a marriage and family therapy corporation shall contain one or more of the words "marriage," "family," or "child" together with one or more of the words "counseling," "counselor," "therapy," or "therapist," and wording or abbreviations denoting corporate existence. A marriage and family therapy corporation that conducts business under a fictitious business name shall not use any name that is false, misleading or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a marriage and family therapy corporation.

§4987.8. DIRECTORS, SHAREHOLDERS AND OFFICERS; NECESSITY OF LICENSE

Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a marriage and family therapy corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

§4988. INCOME FOR PROFESSIONAL SERVICES NOT TO ACCRUE TO DISQUALIFIED

SHAREHOLDERS

The income of a marriage and family therapy corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of that shareholder or his or her shares in the marriage and family therapy corporation.

§4988.1. CORPORATE UNPROFESSIONAL CONDUCT

A marriage and family therapy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by statutes, rules and regulations to the same extent as a person holding a license as a marriage and family therapist.

§4988.2. RULES AND REGULATIONS

The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a marriage and family therapy corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time that rules and regulations may provide, and (b) that a marriage and family therapy corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

ARTICLE 7. REVIEW

§4989. POWERS AND DUTIES OF BOARD; DATE OF REVIEW

The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473). The first review shall be performed as if this chapter were scheduled to become inoperative on July 1, 2005, and would be repealed as of January 1, 2006, as described in Section 473.1.

CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS

ARTICLE 1. GENERAL

4989.10. EDUCATIONAL PSYCHOLOGIST PRACTICE ACT

This chapter shall be known, and may be cited as, the Educational Psychologist Practice Act.

4989.12. ADMINISTRATION AND ENFORCEMENT OF CHAPTER

The Board of Behavioral Sciences shall administer and enforce the provisions of this chapter. For the purposes of this chapter it shall be designated as the board.

4989.14. SCOPE OF PRACTICE

The practice of educational psychology is the performance of any of the following professional functions pertaining to academic learning processes or the educational system or both:

- (a) Educational evaluation.
- (b) Diagnosis of psychological disorders related to academic learning processes.
- (c) Administration of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
- (d) Interpretation of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
- (e) Providing psychological counseling for individuals, groups, and families.
- (f) Consultation with other educators and parents on issues of social development and behavioral and academic difficulties.
- (g) Conducting psychoeducational assessments for the purposes of identifying special needs.
- (h) Developing treatment programs and strategies to address problems of adjustment.
- (i) Coordinating intervention strategies for management of individual crises.

4989.16. LICENSING EXCEPTIONS

- (a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the board.
- (b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Practice Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

4989.18. RULES OF PROFESSIONAL CONDUCT

The board may, by rules or regulations, adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession, provided those rules or regulations are not inconsistent with Section 4989.54. Every person licensed under this chapter shall be governed by those rules of professional conduct.

ARTICLE 2. LICENSURE

4989.20. LICENSURE REQUIREMENTS

(a) The board may issue a license as an educational psychologist if the applicant satisfies, with proof satisfactory to the board, the following requirements:

(1) Possession of, at minimum, a master's degree in psychology, educational psychology, school psychology, or counseling and guidance. This degree shall be obtained from an educational institution approved by the board according to the regulations adopted under this chapter.

(2) Attainment of 18 years of age.

(3) No commission of an act or crime constituting grounds for denial of licensure under Section 480.

(4) Successful completion of 60 semester hours of postgraduate work in pupil personnel services.

(5) Completion of three years of full-time experience as a credentialed school psychologist in the public schools. At least one year of the experience required by this paragraph shall be supervised professional experience in an accredited school psychology program or obtained under the direction of a licensed psychologist or a licensed educational psychologist. The applicant shall not be credited with experience obtained more than six years prior to filing the application for licensure.

(6) Passage of an examination specified by the board.

4989.22. EXAMINATION

(a) Only persons who satisfy the requirements of Section 4989.20 are eligible to take the licensure examination.

(b) An applicant who fails the written examination may, within one year from the notification date of failure, retake the examination as regularly scheduled without further application. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years after the date of an examination.

4989.24. CONVICTION INVOLVING SEXUAL ABUSE OF CHILDREN

The board shall not issue a license to a person who has been convicted of a crime in this or any other state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

4989.26. GROUNDS FOR REFUSAL TO ISSUE LICENSE; MENTAL ILLNESS OR CHEMICAL DEPENDENCY

The board may refuse to issue a license to an applicant if it appears he or she may be unable to practice safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to a denial of a license pursuant to this section.

4989.28. DENIAL OF APPLICATION FOR UNPROFESSIONAL CONDUCT

The board may deny an application for licensure if the applicant is or has been guilty of unprofessional conduct as described in Section 4989.54.

ARTICLE 3. RENEWAL AND CONTINUING EDUCATION

4989.30. EXPIRATION OF LICENSE

A license issued under this chapter shall expire no later than 24 months after its date of issue. The expiration date of the original license shall be set by the board.

4989.32. RENEWAL OF UNEXPIRED LICENSE

To renew an unexpired license, the licensee shall, on or before the expiration date of the license, take all of the following actions:

- (a) Apply for renewal on a form prescribed by the board.
- (b) Pay a renewal fee prescribed by the board.
- (c) Inform the board of whether he or she has been convicted, as defined in Section 490, of any misdemeanor or felony and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state after the prior issuance or renewal of his or her license.
- (d) Complete the continuing education requirements described in Section 4989.34.

4989.34. CONTINUING EDUCATION REQUIREMENTS

(a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 60 hours of approved continuing education in, or relevant to, educational psychology.

(b) Notwithstanding subdivision (a), a licensee who possesses a current pupil personnel services credential

issued on or after July 1, 1994, shall be exempt from the continuing education requirement.

(c) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider approved by the board.

(2) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(d) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(e) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(f) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

(g) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

4989.36. RENEWAL OF EXPIRED LICENSE

A licensee may renew a license that has expired at any time within five years after its expiration date by taking all of the actions described in Section 4989.32 and by paying all unpaid prior renewal fees and delinquency fees.

4989.38. RENEWAL OF SUSPENDED LICENSE

A suspended license is subject to expiration as provided in this article and may be renewed, following the period of suspension, if the licensee takes all of the actions described in Section 4989.32.

4989.40. EXPIRATION AND REINSTATEMENT OF REVOKED LICENSE

A revoked license is subject to expiration as provided in this article and shall not be renewed. The applicant may apply to the board for reinstatement of his or her license and shall pay a reinstatement fee in an amount equal to the renewal fee in effect at that time and any delinquency fees that may have accrued and comply with other requirements of the board for reinstatement.

4989.42. TIME LIMIT FOR RENEWAL AFTER EXPIRATION; NEW LICENSE

A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter. A licensee may apply for a new license if he or she satisfies all of the following requirements:

- (a) No fact, circumstance, or condition exists that, if the license were issued, would constitute grounds for its revocation or suspension.
- (b) Payment of the fees that would be required if he or she were applying for a license for the first time.
- (c) Passage of the current licensure examination.

4989.44. INACTIVE LICENSE

- (a) A licensee may apply to the board to request that his or her license be placed on inactive status.
- (b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of educational psychology in this state.
- (c) A licensee who holds an inactive license shall pay a biennial fee of one-half of the amount of the standard renewal fee.
- (d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status. A licensee requesting that his or her license be placed on active status between renewal cycles shall pay the remaining one-half of his or her renewal fee. A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete 30 hours of continuing education as specified in Section 4989.34. A licensee requesting to restore his or her license to active status, whose license will expire more than one year from the date of the request, shall complete 60 hours of continuing education as specified in Section 4989.34.

ARTICLE 4. REGULATION

4989.46. NAME CHANGE REQUIREMENTS

A licensee shall give written notice to the board of a name change within 30 days after each change, providing both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

4989.48. DISPLAY OF LICENSE

A licensee shall display his or her license in a conspicuous place in the licensee's primary place of practice.

4989.50. NECESSITY OF LICENSE; UNAUTHORIZED REPRESENTATION AS A LICENSEE

Except as authorized by this chapter, it is unlawful for any person to practice educational psychology or use any title or letters that imply that he or she is a licensed educational psychologist unless, at the time of so

doing, he or she holds a valid, unexpired, and unrevoked license issued under this chapter.

4989.52. COMPENSATION IN RELATION TO PROFESSIONAL COUNSELING SERVICES

All consideration, compensation, or remuneration received by the licensee shall be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made to the client.

ARTICLE 5. ENFORCEMENT

4989.54. UNPROFESSIONAL CONDUCT

The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

(e) Advertising in a manner that is false, misleading, or deceptive.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

- (g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.
- (h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.
- (i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.
- (j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.
- (k) Gross negligence or incompetence in the practice of educational psychology.
- (l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.
- (m) Intentionally or recklessly causing physical or emotional harm to any client.
- (n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.
- (o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.
- (p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.
- (q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.
- (r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.
- (s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.
- (t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.
- (u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.
- (v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

4989.56. REVOCATION OF LICENSE; USE OF DRUGS IN PRACTICE

The board shall revoke the license of a licensee, other than one who is also licensed as a physician and surgeon, who uses or offers to use drugs in the course of his or her practice as an educational psychologist.

4989.58. REVOCATION OF LICENSE DUE TO SEXUAL CONTACT WITH A CLIENT

The board shall revoke the license of a licensee upon a decision that contains a finding of fact that the licensee engaged in an act of sexual contact, as defined in Section 729, when that act is with a client, or with a former client and the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4989.60. SUSPENDED OR REVOKED LICENSE; PROHIBITION OF LICENSE-RELATED AND OTHER ACTIVITIES

A person whose license has been suspended or revoked shall not, until the reinstatement of his or her license, engage in any activity to which the license relates or any other activity or conduct in violation of the order or judgment by which the license was suspended.

4989.62. CONDUCT OF DISCIPLINARY PROCEEDINGS

All proceedings by the board to suspend, revoke, or to take other disciplinary action against a licensee shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

4989.64. ISSUANCE OF INJUNCTION OR OTHER ORDER TO RESTRAIN CONDUCT

In addition to other proceedings provided for in this chapter, whenever a person has engaged, or is about to engage, in an act or practice that constitutes, or will constitute, an offense against this chapter, the superior court in and for the county where the act or practice takes place, or is about to take place, may issue an injunction, or other appropriate order, restraining that conduct on application of the board, the Attorney General, or the district attorney of the county. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

4989.66. VIOLATION OF CHAPTER; MISDEMEANOR

A person who violates any of the provisions of this chapter is guilty of a misdemeanor.

ARTICLE 6. REVENUE

4989.68. FEE SCHEDULE

(a) The board shall assess the following fees relating to the licensure of educational psychologists:

(1) The application fee for examination eligibility shall be one hundred dollars (\$100).

(2) The fee for issuance of the initial license shall be a maximum amount of one hundred fifty dollars (\$150).

(3) The fee for license renewal shall be a maximum amount of one hundred fifty dollars (\$150).

(4) The delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to become delinquent may have it restored only upon payment of all the fees that he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(5) The written examination fee shall be one hundred dollars (\$100). An applicant who fails to appear for an examination, once having been scheduled, shall forfeit any examination fees he or she paid.

(6) The fee for rescoring a written examination shall be twenty dollars (\$20).

(7) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(8) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(b) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

4989.70. REPORTING REVENUE TO CONTROLLER; DEPOSIT TO STATE TREASURY

The board shall report each month to the Controller, the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

CHAPTER 13.7. BOARD OF BEHAVIORAL SCIENCES

ARTICLE 1. ADMINISTRATION

4990. BOARD MEMBERS

(a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of 11 members composed as follows:

(1) Two state licensed clinical social workers.

(2) One state licensed educational psychologist.

(3) Two state licensed marriage and family therapists.

(4) Six public members.

(b) Each member, except the six public members, shall have at least two years of experience in his or her profession.

(c) Each member shall reside in the State of California.

(d) The Governor shall appoint four of the public members and the five licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which he or she was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of his or her successor or until 60 days from the expiration date of the term for which he or she was appointed, whichever first occurs.

(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.

(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.

(i) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

4990.02. DEFINITION OF "BOARD"

"Board," as used in this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), and Chapter 14 (commencing with Section 4991) means the Board of Behavioral Sciences.

4990.04. EXECUTIVE OFFICER

- (a) The board shall appoint an executive officer. This position is designated as a confidential position and is exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.
- (b) The executive officer serves at the pleasure of the board.
- (c) The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.
- (d) With the approval of the director, the board shall fix the salary of the executive officer.
- (e) The chairperson and executive officer may call meetings of the board and any duly appointed committee at a specified time and place. For purposes of this section, "call meetings" means setting the agenda, time, date, or place for any meeting of the board or any committee.
- (f) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

4990.06. EMPLOYEES

Subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and except as provided by Sections 155, 156, and 159.5, the board may employ any clerical, technical, and other personnel as it deems necessary to carry out the provisions of this chapter and the other chapters it administers and enforces, within budget limitations.

4990.08. RECORDS OF PROCEEDINGS, APPLICANTS AND LICENSEES

The board shall keep an accurate record of all of its proceedings and a record of all applicants for licensure and all individuals to whom it has issued a license.

4990.10. RESEARCH, STUDIES AND RECOMMENDATIONS

The board may conduct research in, and make studies of problems involved in, the maintaining of professional standards among those engaged in the professions it licenses and may publish its recommendations thereon.

4990.12. ADMINISTRATION AND ENFORCEMENT OF CHAPTERS; POWERS AND DUTIES OF BOARD AND EXECUTIVE OFFICER

The duty of administering and enforcing this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), and Chapter 14 (commencing with Section 4991) is vested in the board and the executive officer subject to, and under the direction of, the board. In the performance of this duty, the board and the executive officer have all the powers and are subject to all the responsibilities vested in, and imposed upon, the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

4990.14. BOARD SEAL

The board shall have and use a seal bearing the words "The Board of Behavioral Sciences," and shall otherwise conform to Section 107.5.

4990.16. PROTECTION OF THE PUBLIC

Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4990.18. LEGISLATIVE INTENT; BOARD RESOURCES

It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

- (a) The licensure of marriage and family therapists, clinical social workers, and educational psychologists.
- (b) The development and administration of licensure examinations and examination procedures consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.
- (c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.
- (d) Consumer education.

4990.20. RULES AND REGULATIONS; ARTICLES OF INCORPORATION AND CORPORATE INSURANCE

(a) The board may adopt rules and regulations as necessary to administer and enforce the provisions of this chapter and the other chapters it administers and enforces. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board may formulate and enforce rules and regulations requiring the following:

- (1) That the articles of incorporation or bylaws of a marriage and family therapist or licensed clinical social worker corporation include a provision whereby the capital stock of that corporation owned by a disqualified person, as defined in the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or a deceased person shall be sold to the corporation or to the remaining shareholders of that corporation within the time that the rules and regulations may provide.
- (2) That a marriage and family therapist corporation or a licensed clinical social worker corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

4990.22. BEHAVIORAL SCIENCES FUND; REVENUE; SURPLUSES

(a) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.

(b) The board shall keep records that reasonably ensure that funds expended in the administration of each licensure or registration category shall bear a reasonable relation to the revenue derived from each category and report to the department no later than May 31 of each year on those expenditures.

(c) Surpluses, if any, may be used by the board in a manner that bears a reasonable relation to the revenue derived from each licensure or registration category and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

4990.24. REVIEW OF POWERS AND DUTIES OF BOARD

The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473).

4990.26. BOARD NAME

Wherever "Board of Behavioral Science Examiners," "Board of Social Work Examiners of the State of California," or "Social Worker and Marriage Counselor Qualifications Board of the State of California" is used in any law or regulations of this state, it shall mean the Board of Behavioral Sciences.

ARTICLE 2. DISCIPLINARY ACTIONS

4990.28. GROUNDS FOR REFUSAL TO ISSUE LICENSE OR REGISTRATION; MENTAL ILLNESS OR CHEMICAL DEPENDENCY

The board may refuse to issue a registration or license under the chapters it administers and enforces whenever it appears that the applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to denial of a license or registration pursuant to this section.

4990.30. PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY

(a) A licensed marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, associate clinical social worker, or licensed educational psychologist whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The petition shall be on a form provided by the board and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order. The petition shall be verified by the petitioner who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.

(b) The licensee or registrant may file the petition on or after the expiration of the following timeframes, each of which commences on the effective date of the decision ordering the disciplinary action or, if the order of the board, or any portion of it, is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

- (1) Three years for reinstatement of a license or registration that was revoked for unprofessional conduct, except that the board may, in its sole discretion, specify in its revocation order that a petition for reinstatement may be filed after two years.
- (2) Two years for early termination of any probation period of three years or more.
- (3) One year for modification of a condition, reinstatement of a license or registration revoked for mental or physical illness, or termination of probation of less than three years.
- (c) The petition may be heard by the board itself or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code.
- (d) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.
- (e) The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition and an opportunity to present both oral and documentary evidence and argument to the board or the administrative law judge.
- (f) The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.
- (g) The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time his or her license or registration was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.
- (h) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate but in no case may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.
- (i) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4990.40. If a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board. The board may take action with respect to the proposed decision and petition as it deems appropriate.
- (j) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.
- (k) The board may delegate to its executive officer authority to order investigation of the contents of the petition.
- (l) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(m) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

4990.32. ENFORCEMENT STATUTE OF LIMITATIONS

(a) Except as otherwise provided in this section, an accusation filed pursuant to Section 11503 of the Government Code against a licensee or registrant under the chapters the board administers and enforces shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitations period provided by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) An accusation alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(e) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(g) For purposes of this section, "discovers" means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

(1) The date the board received a complaint or report describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.

4990.34. PLACING LICENSE OR REGISTRATION ON PROBATION; MONITORING PROGRAM

(a) The board may place a license or registration issued under the chapters it administers and enforces on probation under the following circumstances:

(1) In lieu of, or in addition to, any order of the board suspending or revoking the license or registration.

(2) Upon the issuance of a license or registration to an individual who has been guilty of unprofessional conduct but who otherwise completed all education, training, and experience required for licensure or registration.

(3) As a condition upon the reissuance or reinstatement of a license or registration that has been suspended or revoked by the board.

(b) The board may adopt regulations establishing a monitoring program to ensure compliance with any terms or conditions of probation imposed by the board pursuant to subdivision (a). The cost of probation or monitoring may be ordered to be paid by the licensee or registrant.

4990.36. TRAINING OR EXAMINATION AFTER PROBATION OR SUSPENSION

The board, in its discretion, may require a licensee or registrant whose license or registration has been placed on probation or whose license or registration has been suspended, to obtain additional professional training and to pass an examination upon completion of that training and to pay any necessary examination fee. The examination may be written, oral, or a practical or clinical examination.

4990.38. DISCIPLINARY ACTION BY ANOTHER LICENSING BOARD; GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION

The board may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

4990.40. REVOCATION OF LICENSE OR REGISTRATION DUE TO SEXUAL CONTACT WITH A PATIENT

The board shall revoke a license or registration issued under the chapters it administers and enforces upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined in Section 729, when that act is with a patient or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4990.42. CONDUCT OF PROCEEDINGS

The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 14. SOCIAL WORKERS

4991. CLINICAL SOCIAL WORKER PRACTICE ACT

This chapter shall be known, and may be cited, as the Clinical Social Worker Practice Act. It shall be liberally construed to effect its objectives.

4991.2. DEFINITION OF ACCREDITED SCHOOL OF SOCIAL WORK

"Accredited school of social work," within the meaning of this chapter, is a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

ARTICLE 2. APPLICATION OF CHAPTER

§4992. LICENSE APPLICATION; FEES

Every applicant for a license under this chapter shall file an application with the board accompanied by the application fee prescribed by this chapter. Every application received after January 1, 1988, shall also be accompanied by the examination fee prescribed by this chapter.

The application shall contain information showing that the applicant has all the qualifications required by the board for admission to the examination.

§4992.1. ELIGIBILITY FOR EXAMINATION; EXAMINATION RECORD RETENTION; SEVEN YEAR LIMITATION ON WRITTEN EXAMINATION

(a) Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take the examination.

Every applicant who is issued a clinical social worker license shall be examined by the board.

(b) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

§4992.3. UNPROFESSIONAL CONDUCT; EFFECT ON LICENSEE OR REGISTRANT

The board may refuse to issue a registration or a license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in

order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Gross negligence or incompetence in the performance of clinical social work.

(e) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(l) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services

beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner which is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered associate clinical social worker or intern by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

§4992.33. DECISION CONTAINING FINDING THAT LICENSEE OR REGISTRANT ENGAGED IN SEXUAL CONTACT WITH PATIENT OR FORMER PATIENT; ORDER OF REVOCATION

The board shall revoke any license issued under this chapter upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729, when that act is with a patient, or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

§4992.35. MENTAL ILLNESS OR CHEMICAL DEPENDENCY; GROUNDS FOR REFUSAL TO LICENSE OR REGISTER

The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.

§4992.36. DISCIPLINARY ACTION BY ANOTHER LICENSING BOARD; GROUND FOR APPLICATION DENIAL OR LICENSE OR REGISTRATION SUSPENSION OR REVOCATION

The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another

state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice clinical social work or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice marriage and family therapy, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

§4992.4. CONDUCT OF PROCEEDINGS

The proceedings for the suspension or revocation of licenses under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

§4992.5. TIME AND PLACE OF EXAMINATIONS

Examinations may be held at those times and places as the board may determine. However, one examination shall be held during each calendar year.

The board may make arrangements with organizations furnishing examination materials as it may deem desirable.

§4992.7. FALSE STATEMENTS OR IMPERSONATION IN CONNECTION WITH APPLICATION OR EXAMINATION; MISDEMEANOR

Every person who willfully makes any false statement or who impersonates any other person or permits or aids any other person to impersonate him or her in connection with any application or examination is guilty of a misdemeanor.

§4992.8. LICENSEE OR REGISTRANT NAME CHANGE

A licensee or registrant shall give written notice to the board of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

ARTICLE 3. REVENUE

§4994. BEHAVIORAL SCIENCES FUND; EXPENDITURES

All moneys in the Behavioral Sciences Fund shall be expended by the board for the purposes of the programs under its jurisdiction.

§4994.1. BEHAVIORAL SCIENCES FUND; REDUCTION OF FEES

If those moneys transferred from the Behavioral Sciences Examiners Fund to the General Fund pursuant to the 1991 Budget Act are redeposited to the Behavioral Sciences Examiners Fund, the fees assessed by the board shall be reduced correspondingly.

ARTICLE 4. LICENSURE

§4996. NECESSITY OF LICENSE; UNAUTHORIZED REPRESENTATION AS LICENSEE; MISDEMEANOR

(a) Only individuals who have received a license under this article may style themselves as "Licensed Clinical Social Workers." Every individual who styles himself or herself or who holds himself or herself out to be a licensed clinical social worker, or who uses any words or symbols indicating or tending to indicate that he or she is a licensed clinical social worker, without holding his or her license in good standing under this article, is guilty of a misdemeanor.

(b) It is unlawful for any person to engage in the practice of clinical social work unless at the time of so doing such person holds a valid, unexpired, and unrevoked license under this article.

(c) A clinical social worker licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

§4996.1. ISSUANCE OF LICENSE

The board shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and successfully passes a board administered written or oral examination or both examinations. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

§4996.2. QUALIFICATIONS OF LICENSES

Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.20, 4996.21, or 4996.23.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision

may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

§4996.3. APPLICATION AND EXAMINATION FEES; DEPOSIT

(a) Each application for the standard written examination received on or after January 1, 1999, shall be accompanied by an application fee of one hundred dollars (\$100) and a fee of up to one hundred fifty dollars (\$150), including the standard written examination fee and related administrative costs for the standard written examination. After successfully passing the standard written examination, each applicant shall submit one hundred dollars (\$100) for the clinical vignette written examination. Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid. Effective January 1, 2005, the examination fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(b) The fee for rescoring any written examination shall be twenty dollars (\$20).

(c) The fee for issuance of the initial license shall be a maximum of one hundred fifty-five dollars (\$155).

(d) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

§4996.4. FEE FOR REEXAMINATION

Notwithstanding Section 4996.3, an applicant who has failed any standard or clinical vignette written examination may apply for reexamination upon payment of the fee of up to one hundred fifty dollars (\$150) including the examination fee and related administrative costs. An applicant who fails a standard or clinical vignette written examination may within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Applicants failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

§4996.5. SCOPE, FORM AND CONTENT OF LICENSE

The board shall issue a license to each applicant meeting the requirements of this article, which license, so long as the annual renewal fees have been paid, licenses the holder to engage in the practice of clinical social work as defined in Section 4996.9, entitles the holder to use the title of licensed clinical social worker, and authorizes the holder to hold himself or herself out as qualified to perform any of the functions delineated by this chapter. The

form and content of the license shall be determined by the director in accordance with Section 164.

§4996.6. RENEWAL AND DELINQUENCY FEES; RESTORATION OF DELINQUENT LICENSE; DUPLICATE REGISTRATION, LICENSE OR CERTIFICATE FEES; CERTIFICATE OR LETTER OF GOOD STANDING FEES

(a) The renewal fee for licenses that expire on or after January 1, 1996, shall be a maximum of one hundred fifty-five dollars (\$155) and shall be collected on a biennial basis by the board in accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Sciences Fund.

(b) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(c) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(d) If the license is renewed after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee of seventy-five dollars (\$75).

(e) Any person who permits his or her license to become delinquent may have it restored at any time within five years after its expiration upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of all delinquency fees.

(f) A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the licensee may apply for and obtain a new license if:

(1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.

(2) He or she pays the fees that would be required if he or she were applying for a license for the first time.

(3) He or she takes and passes the current licensing examinations as specified in Section 4996.1.

(g) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).

(h) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

§4996.65 ADDITIONAL LICENSE RENEWAL ASSESSMENT FEE

In addition to the fees charged pursuant to Section 4996.6 for the biennial renewal of a license, the board shall collect an additional fee of ten dollars (\$10) at the time of renewal. The board shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

§4996.7. DISPLAY OF LICENSE

A licensee shall display his or her license in a conspicuous place in the licensee's primary place of practice.

§4996.8. DISPLAY OF CURRENT RENEWAL RECEIPT

The current renewal receipt shall be displayed near the license.

§4996.9. CLINICAL SOCIAL WORK AND PSYCHOTHERAPY DEFINED

The practice of clinical social work is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work.

Psychotherapy, within the meaning of this chapter, is the use of psychosocial methods within a professional relationship, to assist the person or persons to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation, to modify internal and external conditions which affect individuals, groups, or communities in respect to behavior, emotions, and thinking, in respect to their intrapersonal and interpersonal processes.

§4996.10. APPLICATION OF ARTICLE ONLY TO CLINICAL SOCIAL WORKERS

The provisions of this article shall be construed only as provisions relating to the examination and licensing of clinical social workers.

§4996.11. SUSPENSION OR REVOCATION OF LICENSE; GROUNDS; CONDUCT OF PROCEEDINGS

The board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

§4996.12. VIOLATIONS; PENALTIES

Any person who violates this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding a period of six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

§4996.13. OTHER PROFESSIONAL GROUPS; WORK OF PSYCHOSOCIAL NATURE; IMPERMISSIBLE REPRESENTATIONS

Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

- (a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).

- (b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).
- (c) Members of the State Bar of California.
- (d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).
- (e) A priest, rabbi, or minister of the gospel of any religious denomination.

§4996.14. EMPLOYEES OF CERTAIN ORGANIZATIONS; ACTIVITIES OF PSYCHOSOCIAL NATURE OR USE OF OFFICIAL TITLE OF POSITION

Nothing in this chapter shall restrict or prevent activities of a psychosocial nature or the use of the official title of the position for which they are employed on the part of the following persons, if those persons are performing those activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization in which they are employed. However, they shall not offer to render clinical social work services, as defined in Section 4996.9, to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization in which they are employed.

- (a) Persons employed by the United States Department of Health and Human Services.
- (b) Persons employed in family or children services agencies.
- (c) Individuals employed in proprietary or nonproprietary private psychiatric clinics.
- (d) Individuals employed in accredited colleges, junior colleges, or universities.
- (e) Individuals employed in federal, state, county or municipal governmental organizations, or nonprofit organizations which are engaged in research, education, and services which services are defined by a board composed of community representatives and professionals.
- (f) Persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry, or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders.

§4996.15. PERFORMANCE OF PSYCHOSOCIAL WORK BY PERSONS IN ACADEMIC INSTITUTIONS, GOVERNMENT AGENCIES OR NONPROFIT ORGANIZATIONS; SOCIAL WORK INTERN

Nothing in this article shall restrict or prevent activities of a psychosocial nature on the part of persons employed by accredited academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or social work interns pursuing the course of study leading to a master's degree in social work in an accredited college or university, or working in a recognized training program, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by such titles as social work interns, social work trainees, or other titles clearly indicating the training status appropriate to their level of training. The term "social work intern," however, shall be reserved for persons enrolled in a master's or doctoral training program in social work in an accredited school or department of social work.

§4996.16. PERSONS FROM OUT OF STATE; CLINICAL SOCIAL WORK SERVICES IN THIS STATE

Nothing in this chapter shall apply to any clinical social worker from outside this state, when in actual consultation with a licensed practitioner of this state, or when an invited guest of a professional association, or of an educational institution for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is at the time of the consultation, lecture, or demonstration licensed to practice clinical social work in the state or country in which he or she resides. These clinical social workers shall not open an office or appoint a place to meet clients or receive calls from clients within the limits of this state.

§4996.17. EXPERIENCE GAINED OUTSIDE CALIFORNIA; USE TOWARDS LICENSING REQUIREMENTS

(a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(b) The board may issue a license to any person who, at the time of application, has held a valid active clinical social work license, issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Sections 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, has held a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

§4996.18. ASSOCIATE CLINICAL SOCIAL WORKER; REGISTRATION; APPLICATION; EXPIRATION AND RENEWAL; EMPLOYMENT; SUPERVISION; CREDIT

(a) A person who wishes to be credited with experience toward licensure requirements shall register with the board as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the board and shall be accompanied by a fee of seventy-five dollars (\$75). An applicant for registration shall (1) possess a master's degree from an accredited school or department of social work, and (2) not have committed any crimes or acts constituting grounds for denial of licensure under Section 480. On and after January 1, 1993, an applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible for examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

(b) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. A registration may be renewed annually after initial registration by filing on or before the date on which the registration expires, an application for renewal, paying a renewal fee of seventy-five dollars (\$75), and notifying the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the issuance of the initial registration or registrant's last renewal. Each person who registers or has registered as an associate clinical social worker, may retain that status for a total of six years.

(c) Notwithstanding the limitations on the length of an associate registration in subdivision (b), an associate may apply for, and the board shall grant, one-year extensions beyond the six-year period when no grounds exist for denial, suspension, or revocation of the registration pursuant to Section 480. An associate shall be eligible to receive a maximum of three one-year extensions. An associate who practices pursuant to an extension shall not practice independently and shall comply with all requirements of this chapter governing experience, including supervision, even if the associate has completed the hours of experience required for licensure. Each extension shall commence on the date when the last associate renewal or extension expires. An application for extension shall be made on a form prescribed by the board and shall be accompanied by a renewal fee of fifty dollars (\$50). An associate who is granted this extension may work in all work settings authorized pursuant to this chapter.

(d) A registrant shall not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee.

(e) A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

(f) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.20, 4996.21, or 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

(h) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a master's of social work degree that is equivalent to a master's degree issued from a school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work Education. These applicants shall provide the board with a comprehensive evaluation of the degree and shall provide any other documentation the board deems necessary. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements regardless of evaluation or accreditation.

§4996.19. LICENSED CLINICAL SOCIAL WORKERS' CORPORATION; APPLICATION OF ARTICLE

Nothing in this article shall prohibit the acts or practices of a licensed clinical social workers' corporation duly certificated pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code and Article 5 (commencing with Section

4998), when the corporation is in compliance with (a) the Moscone-Knox Professional Corporation Act; (b) Article 5 (commencing with Section 4998); and (c) all other statutes and all rules and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

§4996.20. SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA PRIOR TO JANUARY 1, 1999

The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.

For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. "Individual supervision" means one supervisor meets with one supervisee at a time. "Group supervision" means a supervisor meets with a group of no more than eight supervisees at a time.

(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation or a licensed health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:

- (1) Pay his or her employer for supervision, and shall receive fair remuneration from his or her employer.
- (2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.
- (3) Perform services at any place except where the registrant's employer regularly conducts business.
- (4) Have any proprietary interest in the employer's business.

(d) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written contract with the employer to take supervisory responsibility for the registrant's social work services.

(e) This section shall apply only to persons who apply for registration on or before December 31, 1998.

§4996.21. SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 1999

The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) On or after January 1, 1999, an associate shall have at least 3,200 hours of post-master's degree experience in providing clinical social work services as permitted by Section 4996.9. At least 1,700 of these

hours shall be gained under the supervision of a licensed clinical social worker. The remaining hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined in a regulation adopted by the board. Experience shall consist of the following:

(1) A minimum of 2,000 hours in psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(b) Supervision means responsibility for and control of the quality of clinical social work services being provided.

(c) Consultation or peer discussion shall not be considered to be supervision.

(d) Supervision shall include at least one hour of direct supervisor contact for a minimum of 104 weeks and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group setting of not more than eight persons.

(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.

(f) (1) Experience shall only be gained in a setting that meets both of the following:

(A) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(2) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(3) Employment in a private practice as defined in paragraph (4) shall not commence until the applicant has been registered as an associate clinical social worker.

(4) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(5) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(6) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(g) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to associates.

(h) An associate shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(i) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

§4996.22. CONTINUING EDUCATION EFFECTIVE JANUARY 1, 2004

(a) (1) Except as provided in subdivision (c), on and after January 1, 2000, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.

(2) For those persons renewing during 1999, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of social work, as determined by the board. The coursework of continuing education described in this paragraph may be taken on or after the effective date of the continuing education regulations adopted by the board pursuant to the other provisions of this section.

(3) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4990.4, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional social work association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, and a mental health professional association, approved by the board.

(3) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(e) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(f) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(h) The board may adopt regulations as necessary to implement this section.

(i) On and after January 1, 1997, the board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Science Examiners Fund. The fees related to the administration of this section shall be sufficient to meet but shall not exceed the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d), shall be deemed to be an approved provider.

(j) This section shall become operative on January 1, 2004.

§4996.23 SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 2002

The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) All persons registered with the board on and after January 1, 2002, shall have at least 3,200 hours of post-master's degree supervised experience providing clinical social work services as permitted by Section 4996.9. At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined by a regulation adopted by the board. This experience shall consist of the following:

(1) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Of the 2,000 clinical hours required in paragraph (1), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

(4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(5) Experience shall not be credited for more than 40 hours in any week.

(b) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. In addition, an associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision.

(d) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.

(e) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(i) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(l) Associates shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.

§4996.25 ADDITIONAL COURSEWORK

(a) Any applicant for licensure as a licensed clinical social worker who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

§4996.26 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS

(a) A licensee who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care during his or her first renewal period after the operative date of this section, and shall submit to the board evidence acceptable to the board of the person's satisfactory completion of the course.

(b) The course shall include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) Any person seeking to meet the requirements of subdivision (a) of this section may submit to the board a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The board, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The board may not renew an applicant's license until the applicant has met the requirements of this section.

(e) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required in Section 4996.22.

(f) This section shall become operative on January 1, 2005.

§4997. INACTIVE LICENSE

A licensed clinical social worker may apply to the board to request that his or her license be placed on inactive status. A licensee who holds an inactive license shall pay a biennial fee of half of the active renewal fee and shall be exempt from continuing education requirements specified in Section 4996.22, but shall otherwise be subject to this chapter and shall not engage in the practice of licensed clinical social work in this state. A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice licensed clinical social work placed on active status. A licensee requesting his or her license to be placed on active status between renewal cycles shall pay the remaining half of the renewal fee. A licensee requesting to reactivate from an inactive status whose license will expire less than one year from the date of the request shall be required to complete 18 hours of continuing education for license renewal. A licensee requesting to reactivate from an inactive status whose license will expire more than one year from the date of the request shall be required to complete 36 hours of continuing education for license renewal.

ARTICLE 5. CLINICAL SOCIAL WORKERS CORPORATIONS

§4998. DEFINITION; RIGHT TO PRACTICE CLINICAL SOCIAL WORK; BOARD AS GOVERNMENTAL AGENCY

A licensed clinical social worker corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are licensed clinical social workers, physicians and surgeons, psychologists, marriage and family therapists, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs. With respect to a licensed clinical social worker corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

§4998.1. UNPROFESSIONAL CONDUCT

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act ((Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or any regulations duly adopted under those laws.

§4998.2. NAME

Notwithstanding Section 4996, the name of a licensed clinical social worker corporation and any name or names under which it may be rendering professional services shall contain the words "licensed clinical social worker" and wording or abbreviations denoting corporate existence.

A licensed clinical social worker corporation that conducts business under a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a licensed clinical social worker corporation.

§4998.3. DIRECTORS, SHAREHOLDERS AND OFFICERS; LICENSE

Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a licensed clinical social worker corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

§4998.4. INCOME ATTRIBUTABLE TO SHAREHOLDER WHO IS DISQUALIFIED PERSON

The income of a licensed clinical social worker corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in the Moscone-Knox Professional Corporation Act (Part 4(commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), shall not in any manner accrue to the benefit of that shareholder or his or her shares in the licensed clinical social workers corporation.

§4998.5. CORPORATE UNPROFESSIONAL CONDUCT

A licensed clinical social worker corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes, rules, and regulations to the same extent as a person holding a license as a licensed clinical social worker.

CALIFORNIA CODE OF REGULATIONS

TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

Division 18. Board of Behavioral Sciences (Originally Printed 12-5-46)

ARTICLE 1. GENERAL PROVISIONS

§1800. DECLARATORY DECISIONS

No decision or opinion issued by the Board is a declaratory decision under Government Code Sections 11465.10.-11465.70. unless the decision or opinion specifically states that it is a "Declaratory Decision".

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 11465.10-11465.70, Government Code.

History

1. New section filed 6-11-98; operative 7-11-98 (Register 98, No. 24). For prior history, see Register 97, No. 3.

§1802. DEFINITIONS

For the purpose of the rules and regulations contained in this chapter, the term "board" means the Board of Behavioral Sciences; and the term "Code" means the Business and Professions Code.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4990 and 4990.1, Business and Professions Code.

History

1. Amendment filed 6-24-71; effective thirtieth day thereafter (Register 71, No. 26).
2. Amendment filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
3. Change without regulatory effect of NOTE (Register 86, No. 41).
4. Change without regulatory effect amending section filed 11-24-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).

§1803. DELEGATION OF CERTAIN FUNCTIONS

The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the efficient dispatch of the business of the board in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer, or, in his or her absence from the office of the board, the acting executive officer.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.07, 4990.8 and 4990.13, Business and Professions Code; and Section 11500-11528, Government Code.

History

1. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34).
2. Change without regulatory effect of NOTE (Register 86, No. 41).
3. Amendment filed 8-10-87; operative 8-10-87 (Register 87, No. 34).

§1804. FILING OF ADDRESSES

Each person or professional corporation regulated by the board shall maintain a current mailing address with the board and shall notify the board within thirty (30) days concerning any change of address giving both the old and

new addresses.

Note: Authority cited: Sections 4980.60, 4990.11 and 4990.14, Business and Professions Code. Reference: Sections 4980.07, 4990.11 and 4990.13, Business and Professions Code.

History

1. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).

§1805. APPLICATIONS

(a) Applications submitted to the board for registration or licensure shall be on a form prescribed by the board.

(b) The board may issue final filing dates for all examinations not to exceed ninety (90) days prior to any examination. An applicant who fails to submit a complete examination application to the board by a final filing date shall not be eligible for that examination and his or her application shall be considered abandoned if it meets the criteria in Section 1806 (c).

Note: Authority cited: Sections 4980.60, 4988.2 and 4990.14, Business and Professions Code. Reference: Sections 4980.30, 4980.40, 4986.20, 4987.6, 4992, and 4996.2, Business and Professions Code.

History

1. Amendment filed 1-10-73; effective thirtieth day thereafter (Register 73, No. 2).
2. Amendment filed 12-20-74; effective thirtieth day thereafter (Register 74, No. 51).
3. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34).
4. Amendment filed 10-5-78; effective thirtieth day thereafter (Register 78, No. 40).
5. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
6. Change without regulatory effect of NOTE (Register 86, No. 41).
7. Amendment of section and NOTE filed 12-24-99; operative 1-23-2000 (Register 99, No. 52.)

§1805.1. PERMIT PROCESSING TIMES

"Permit" as defined by the Permit Reform Act of 1981 means any license, certificate, registration, permit or any other form of authorization required by a state agency to engage in a particular activity or act. Processing times for the board's various programs are set forth below. The actual processing times reflect the period from the date the board receives an application to the date a license or registration is issued, and apply to those persons who take and pass the first actual available examination.

PROGRAM	Maximum time for notifying that application is complete or deficient	Maximum time after receipt of a complete application to issue or deny license or registration	ACTUAL PROCESSING TIMES BASED ON PRIOR TWO YEARS		
			Minimum	Median	Maximum
MFT Intern Registration	60 days	30 days	15	100	186
MFT License	90 days	120 days	104	182	260
LCSW Associate Registration	60 days	30 days	15	53	90
LCSW License	90 days	120 days	104	178	253
LEP License	90 days	120 days	98	179	260
CE Provider Approval	30 days	30 days	n/a	n/a	n/a
MFT Referral Service Registration	30 days	30 days	n/a	n/a	n/a
All Renewals	30 days	60 days	28	42	56

Note: Authority Cited: Sections 650.4, 4980.60 and 4990.14, Business and Professions Code. Reference: Section 15376, Government Code.

History

1. New section filed 1-8-90; operative 1-8-90 (Register 90, No. 3).
2. Amendment filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No.21).
3. Editorial correction (Register 97, No. 30).

4. Amendment filed 11-5-97; operative 12-5-97 (Register 97, No. 45).
5. Change without regulatory effect amending table filed 3-22-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 12).
6. Change without regulatory effect amending section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1806. ABANDONMENT OF APPLICATION

An application shall be deemed abandoned if:

- (a) The application has not been completed by the applicant within one (1) year after it has been filed. An application shall be deemed complete when all documents and information required have been submitted to the board; or
- (b) The applicant does not submit information that he or she has corrected the deficiencies specified in a deficiency letter within one (1) year from the date of the deficiency letter; or
- (c) The applicant fails to sit for examination within one (1) year after being notified of eligibility; or
- (d) The applicant fails to pay the initial license fee within one (1) year after notification by the board of successful completion of examination requirements.

An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.30, 4980.35, 4984.7, 4986.20, 4986.80, 4992 and 4996.3, Business and Professions Code.

History

1. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).
4. Amendment filed 5-17-90; operative 5-17-90 (Register 90, No. 26).
5. Amendment of subsections (a) and (c), new subsection (d) and amendment of NOTE filed 9-6-96; operative 9-6-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 36).
6. Amendment of subsections (a) and (b) and NOTE filed 6-17-98; operative 7-17-98 (Register 98, No. 25).

§1807. HUMAN SEXUALITY TRAINING

The human sexuality training required of marriage and family therapists and clinical social workers by Sections 25 and 4980.41 of the Code shall:

- (a) Consist of a minimum of ten (10) hours of training or coursework.
- (b) Include the study of physiological-psychological and social-cultural variables associated with sexual identity, sexual behavior or sexual disorders.
- (c) Have been completed after January 1, 1970, and shall have been obtained from one of the educational institutions or entities specified herein:
 - (1) An educational institution accredited by one or more of those entities specified in Section 1832 of these regulations, including extension courses offered by such institutions; or
 - (2) An educational institution approved by the Bureau for Private Postsecondary and Vocational Education pursuant to Sections 94900 and 94901 of the Education Code, including extension courses offered by such institutions; or
 - (3) A continuing education provider approved by the board; or
 - (4) A course sponsored by a professional association; or

(5) A course sponsored, offered, or approved by a state, county, or local department of health services or department of mental health.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 25, 4980.41, 4980.54, and 4996.22, Business and Professions Code.

History

1. Renumbering and amendment of former Section 1841 to Section 1807 filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38). For history of former Section 1807, see Registers 77, No. 5; and 73, No. 27.
2. Change without regulatory effect of NOTE (Register 86, No. 41).
3. Amendment filed 8-10-87; operative 8-10-87 (Register 87, No. 34).
4. Amendment of subsections (c) (2)-(3) and amendment of NOTE filed 7-12-01; operative 8-11-01 (Register 2001, No. 28).
5. Change without regulatory effect amending first paragraph filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1807.2. CHILD ABUSE ASSESSMENT TRAINING REQUIREMENTS

All persons applying for a license or renewal of a license as a marriage and family therapist or clinical social worker shall in addition to all other requirements for licensure, have completed coursework or training in child abuse assessment and reporting and shall submit documentation to the board. The coursework or training in child abuse assessment and reporting shall consist of not less than 7 classroom hours and shall include training in each of the subject areas described in Section 28 of the Code. The coursework or training shall be:

(a) Obtained at an educational institution, or in an extension course offered by an institution which is accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education, pursuant to Sections 94900 and 94901 of the Education Code; or

(b) Obtained from a statewide professional association representing the professions of psychology, social work or marriage and family therapy; or

(c) Obtained from or sponsored by a local, county, state or federal governmental entity, or licensed health facility; or

(d) Obtained from a continuing education provider approved by the board.

(e) Completed after January 1, 1983.

Note: Authority cited: Sections 28, 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 28, 4980.54 and 4996.22, Business and Professions Code; and Sections 11165 and 11166, Penal Code.

History

1. New section filed 5-7-87; operative 5-7-87 (Register 87, No. 20).
2. Change without regulatory effect amending subsection (a) filed 4-19-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 17).
3. Amendment of section and NOTE filed 3-13-03; operative 4-12-03 (Register 2003, No. 11.)
4. Change without regulatory effect amending first paragraph and subsection (b) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1810. ALCOHOLISM AND OTHER CHEMICAL SUBSTANCE DEPENDENCY TRAINING

(a) The instruction and training in alcoholism and other chemical substance dependency required by Sections 4980.41, 4980.80, 4980.90, 4996.2, and 4996.17 of the Code shall consist of not less than fifteen hours of classroom training or coursework and shall include each of the following areas:

(1) The definition of alcoholism and other chemical dependency, and the evaluation of the abuser.

(2) Medical aspects of alcoholism and other chemical dependency.

(3) Current theories of the etiology of substance abuse.

(4) The role of persons and systems that support or compound the abuse.

- (5) Major treatment approaches to alcoholism and chemical dependency.
- (6) Legal aspects of substance abuse.
- (7) Knowledge of certain populations at risk with regard to substance abuse.
- (8) Community resources offering assessment, treatment and follow-up for the abuser and family.
- (9) The process of referring affected persons.
- (10) Education concerning and prevention of substance abuse.

(b) For persons subject to Section 4980.41 (d) of the Code, the training or coursework shall be:

(1) Obtained from an educational institution or in an extension course offered by an institution that is either accredited by one or more of the entities specified in Section 1832 of these regulations or is approved by the Bureau for Private Postsecondary and Vocational Education pursuant to Sections 94900 and 94901 of the Education Code;

(c) For all others, the training or coursework shall be:

- (1) Obtained from the educational institutions identified in subsection (b) (1); or
- (2) Obtained from or sponsored by a local, county, state or federal governmental entity; or
- (3) Obtained from a licensed health facility; or
- (4) Obtained from a continuing education provider approved by the board.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.41, 4980.80, 4980.90, 4996.2, and 4996.17 Business and Professions Code.

History

- 1. New section filed 3-28-86; effective thirtieth day thereafter (Register 86, No. 13).
- 2. Change without regulatory effect of NOTE (Register 86, No. 41).
- 3. Amendment filed 8-10-87; operative 8-10-87 (Register 87, No. 34).
- 4. Amendment of section heading, section and NOTE filed 7-1-2004; operative 7-31-04 (Register 2004, No. 27).

§1811. USE OF LICENSE NUMBER IN DIRECTORIES AND ADVERTISEMENTS

All persons or referral services regulated by the board who advertise their services shall include their license or registration number in the advertisement unless such advertisement contains the following specific information:

- (a) The full name of the licensee or registered referral service as filed with the board; and
- (b) A designation of the type of license or registration held as follows:
 - (1) Licensed Marriage and Family Therapist.
 - (2) Licensed Educational Psychologist.
 - (3) Licensed Clinical Social Worker.
 - (4) Registered MFT Referral Service.
- (c) An unlicensed Marriage and Family Therapist Registered Intern may advertise if such advertisement complies

with Section 4980.44(a)(4) of the Code making disclosures required by that section.

(d) An unlicensed Associate Clinical Social Worker may advertise if such advertisement complies with Section 4996.18 (e) of the Code making disclosures required by that section.

Note: Authority cited: Sections 137, 650.4, 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 137, 4980.44 and 4996.18, Business and Professions Code.

History

1. New section filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38.)
3. Change without regulatory effect (Register 86, No. 41).
4. Amendment of section and NOTE filed 11-5-97; operative 12-5-97 (Register 97, No. 45).
5. Change without regulatory effect amending subsection (c) filed 11-25-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).
6. Amendments of first paragraph and subsection (a), repealer of subsection (b) (4), subsection renumbering, new subsection (d) and amendment of NOTE filed 9-13-02; operative 10-13-02 (Register 2002, No. 37).
7. Change without regulatory effect amending subsections (b)(1), (b)(4) and (c) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1812. SUBSTANTIAL RELATIONSHIP CRITERIA

For purposes of denial, suspension, or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under Chapter 17 of Division 3 and Chapter 4 of Part 3 of Division 7 of the Code if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 481, 490 and 4982, Business and Professions Code.

History

1. New section filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).

§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE

When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- (d) The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.

History

1. New section filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).

§1814. CRITERIA FOR REHABILITATION-SUSPENSIONS OR REVOCATIONS

(a) When considering the suspension or revocation of a license, the board, in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
- (8) Evidence, if any, of rehabilitation submitted by the licensee.

(b) When considering a petition for reinstatement of a license or registration under the provisions of Section 11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 1813 of this article.

Note: Authority cited: Sections 4980.60 and 4990.14 , Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.
History

1. New section filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).

ARTICLE 2. FEES

§1816. RENEWAL FEES

(a) The biennial renewal fee for a marriage and family therapist is one hundred fifty dollars (\$150.00). For those persons whose license expires on or after July 1, 1998, the biennial renewal fee shall be one hundred thirty dollars (\$130.00) except for the period of time in subsection (h).

(b) The biennial renewal fee for a licensed clinical social worker is one hundred fifty dollars (\$150.00). For those persons whose license expires on or after July 1, 1998, the biennial renewal fee shall be one hundred dollars (\$100.00) except for the period of time in subsection (i).

(c) The biennial renewal fee for a licensed educational psychologist is eighty dollars (\$80.00) for each person whose license expires on or after July 1, 1998 except for the period of time in subsection (j).

(d) The biennial renewal fee for a board-approved continuing education provider is two hundred dollars (\$200.00).

(e) The annual renewal fee for intern registration is seventy-five dollars (\$75.00).

- (f) The annual renewal fee for associate clinical social worker registration is seventy-five dollars (\$75.00).
- (g) The fee for associate clinical social worker extension is fifty dollars (\$50.00).
- (h) For the period of January 1, 2001 through December 31, 2002, the biennial renewal fee for a marriage and family therapist is twenty-five dollars (\$25.00).
- (i) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed clinical social worker is twenty-five dollars (\$25.00).
- (j) For the period of January 1, 2001 through December 31, 2002, The biennial renewal fee for a licensed educational psychologist is twenty-five dollars (\$25.00).

Note: Authority Cited: Sections 4980.54, 4980.60, 4990.14, and 4994.1, Business and Professions Code. Reference: Sections 4980.54, 4984.7, 4986.80, 4994.1, 4996.6, 4996.18 and 4996.22, Business and Professions Code.

History

1. Amendment filed 11-5-81; effective thirtieth day thereafter (Register 81, No. 45).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Repealer filed 8-10-87; operative 8-10-87 (Register 87, No. 34).
4. New section filed 2-5-96; operative 2-5-96 pursuant to Government Code section 11343.4 (d) (Register 96, No. 6).
5. New subsection (d) and amendment of NOTE filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4 (d) (Register 97, No. 21).
6. Amendment of section and NOTE filed 3-11-98; operative 3-11-98 pursuant to Government Code section 11343.4 (d) (Register 98, No. 11).
7. Amendment of section heading, new subsections (e)-(g), and amendment of NOTE filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2).
8. Amendment of subsections (a) – (c) and new subsections (h) – (j) filed 7-25-00; operative 1-1-2001 (Register 2000, No. 30).
9. Change without regulatory effect amending subsections (a) and (h) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1816.1. INITIAL LICENSE AND REGISTRATION FEES

- (a) On or after July 1, 1998, the fee for issuance of the initial marriage and family therapist license shall be one hundred thirty dollars (\$130.00).
- (b) On or after July 1, 1998, the fee for issuance of the initial clinical social worker license shall be one hundred dollars (\$100.00).
- (c) On or after July 1, 1998, the fee for issuance of the initial educational psychologist license shall be eighty dollars (\$80.00).
- (d) The fee for issuance of the initial intern registration shall be seventy-five dollars (\$75.00).
- (e) The fee for issuance of the initial associate clinical social worker registration shall be seventy-five dollars (\$75.00).

Note: Authority cited: Sections 4980.60, 4990.14, and 4994.1, Business and Professions Code. Reference: Sections 4984.7, 4986.80, 4994.1, 4996.3, and 4996.18, Business and Professions Code.

History

1. New section filed 2-5-96; operative 2-5-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 6).
2. Amendment of section and NOTE filed 3-11-98; operative 3-11-98 pursuant to Government Code section 11343.4 (d) (Register 98, No. 11).
3. Amendment of section heading, new subsections (d) and (e), and amendment of NOTE filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4 (d) (Register 99, No. 2).
4. Change without regulatory effect amending subsection (a) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1816.2. WRITTEN EXAMINATION AND RE-EXAMINATION FEES

- (a) The examination and re-examination fee for the standard written examination of the licensed clinical social worker shall be one hundred dollars (\$100.00).
- (b) The examination and re-examination fee for the written clinical vignette examination of the licensed clinical

social worker shall be one hundred dollars (\$100.00).

(c) The examination and re-examination fee for the standard written examination of the marriage and family therapist shall be one hundred dollars (\$100.00).

(d) The examination and re-examination fee for the written clinical vignette examination of the marriage and family therapist shall be one hundred dollars (\$100.00).

(e) The examination and re-examination fee for the written examination of the licensed educational psychologist shall be one hundred dollars (\$100.00).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.7, 4986.80, 4996.3(a) and 4996.4, Business and Professions Code.

History

1. New section filed 9-6-96; operative 9-6-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 36).
2. Amendment of section heading and subsection (a), repealer and new subsection (b), new subsections (c)-(e), and amendment of NOTE filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No.2).
3. Amendment of section heading and subsections (a) – (d) filed 3-3-2004 as an emergency; operative 3-3-04 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1- 2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2004 order transmitted to OAL 6-18-04 and filed 7-22-2004 (Register 2004, No. 30).

§1816.3. EXAMINATION RESCORING FEES

The fee for rescoring any marriage and family therapist, licensed clinical social worker, or licensed educational psychologist written examination shall be twenty dollars (\$20.00).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.7, 4986.80 and 4996.3, Business and Professions Code.

History

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2).
2. Amendment of section heading and section filed 3-3-2004 as an emergency; operative 3-3-04 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1- 2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3-3-2004 order transmitted to OAL 6-18-04 and filed 7-22-2004 (Register 2004, No. 30).

§1816.4. EXAMINATION APPLICATION FEES

(a) The examination application fee for the marriage and family therapist shall be one hundred dollars (\$100.00).

(b) The examination application fee for the licensed clinical social worker shall be one hundred dollars (\$100.00).

(c) The examination application fee for the licensed educational psychologist shall be one hundred dollars (\$100.00).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.7, 4986.80, and 4996.3, Business and Professions Code.

History

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2).
2. Change without regulatory effect amending subsection (a) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1816.5. REPLACEMENT AND CERTIFICATION FEES

(a) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20.00).

(b) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25.00).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.7, 4986.80, and 4996.6, Business and Professions Code.

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2).

§1816.6. INACTIVE LICENSE FEES

(a) The fee for issuance of the inactive marriage and family therapist license shall be sixty-five dollars (\$65.00) except for the period of time in subsection (d).

(b) The fee for issuance of the inactive licensed clinical social worker license shall be fifty dollars (\$50.00) except for the period of time in subsection (e).

(c) The fee for issuance of the inactive licensed educational psychologist license shall be forty dollars (\$40.00) except for the period of time in subsection (f).

(d) For the period of January 1, 2001 through December 31, 2002, the fee for issuance of the inactive marriage and family therapist license shall be twelve dollars and fifty cents (\$12.50).

(e) For the period of January 1, 2001 through December 31, 2002, the fee for issuance of the inactive licensed clinical social worker license shall be twelve dollars and fifty cents (\$12.50).

(f) For the period of January 1, 2001 through December 31, 2002, the fee for issuance of the inactive licensed educational psychologist license shall be twelve dollars and fifty cents (\$12.50).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.8, 4986.82, and 4997, Business and Professions Code.

History

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2).

2. Amendment of subsections (a)-(c) and new subsections (d)-(f) filed 7-25-2000; operative 1-1-2001 (Register 2000, No. 30).

3. Change without regulatory effect amending subsections (a) and (d) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1816.7. DELINQUENT LICENSE FEES

(a) The delinquency fee for the marriage and family therapist license shall be sixty-five dollars (\$65.00) except for the period of time in subsection (d).

(b) The delinquency fee for the licensed clinical social worker license shall be fifty dollars (\$50.00) except for the period of time in subsection (e).

(c) The delinquency fee for the licensed educational psychologist license shall be forty dollars (\$40.00) except for the period of time in subsection (f).

(d) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the marriage and family therapist license shall be twenty-five dollars (\$25.00).

(e) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the licensed clinical social worker license shall be twenty-five dollars (\$25.00).

(f) For the period of January 1, 2001 through December 31, 2002, the delinquency fee for the licensed educational psychologist license shall be twenty-five dollars (\$25.00).

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4984.7, 4986.80, and 4996.6, Business and Professions Code.

History

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 1999, No. 2).

2. Amendment of subsections (a)-(c) and new subsections (d)-(f) filed 7-25-00; operative 1-1-2001 (Register 2000, No. 30).

3. Change without regulatory effect amending subsections (a) and (d) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1819.1. CONTINUING EDUCATION PROVIDER FEES

The application fee for board approval as a continuing education provider is two hundred dollars (\$200.00). This fee also covers the issuance of the initial two-year continuing education provider approval.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).

ARTICLE 4. MARRIAGE AND FAMILY THERAPIST

§1829. EXAMINATIONS

The written examinations shall consist of the following:

(a) A standard written examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principles, techniques, objectives, theory and laws under which he or she must operate; and

(b) A written clinical vignette examination designed to assess the applicant's judgment, knowledge of the application of psychosocial and psychotherapeutic methods and measures in treatment, and ability to assume professional responsibilities.

Note: Authority cited: Sections 4980.40 and 4980.60, Business and Professions Code. Reference: Section 4980.40, Business and Professions Code.

History

1. New section filed 3-3-2004 as an emergency; operative 3-3-04 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-3-2004 order, including amendment of article heading, transmitted to OAL 6-18-04 and filed 7-22-2004 (Register 2004, No. 30).

§1832. EQUIVALENT ACCREDITING AGENCIES

The following accrediting agencies are essentially equivalent to Western College Association, which has been renamed the Western Association of Schools and Colleges, and Northwest Association of Secondary and Higher Schools:

(a) Middle States Association of Colleges and Secondary Schools.

(b) New England Association of Schools and Colleges.

(c) North Central Association of Colleges and Secondary Schools.

(d) Southern Association of Colleges and Schools.

(e) The Credentials Evaluation Service of the International Education Research Foundation, Inc. when it evaluates the foreign degree as being equivalent to the required degrees, and those foreign degree programs meet the educational requirements for equivalent degrees and the specific course content and educational requirements as set forth in sections 4980.40 and 4980.41 of the Code.

(f) State of California, Department of Education, Bureau of School Approvals with respect to its functions under Education Code section 29023(a)(2), when applied to master's degree and/or doctoral programs which meet the requirements for an equivalent degree pursuant to section 1830 of these regulations, and the specific course content and educational requirements as set forth in sections 4980.40 and 4980.41, of the Code.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections 4980.40 and 4980.41, Business and Professions Code.

History

1. Amendment filed 9-26-75; effective thirtieth day thereafter (Register 75, No. 39).

2. Amendment filed 4-29-77; effective thirtieth day thereafter (Register 77, No. 18).
3. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
4. Change without regulatory effect (Register 86, No. 41).
5. Amendment of subsection (e) filed 5-17-90; operative 5-17-90 (Register 90, No. 26).

§1833. EXPERIENCE

(a) In order for experience to qualify under Section 4980.40(f) of the Code, it must meet the following criteria:

(1) It must have been gained in accordance with Sections 4980.42 through 4980.45 of the Code and the regulations contained in this article.

(2) Experience shall not be credited for more than forty (40) hours in any week.

(3) No more than five hundred (500) hours of experience will be credited for providing group therapy or group counseling.

(4) No more than two hundred fifty (250) hours of experience will be credited for administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes; except that for any person who enrolled in a qualifying degree program prior to January 1, 1990, no more than five hundred (500) hours of experience may be credited for such activities.

(5) For any person who enrolls in a qualifying degree program on or after January 1, 1990, no more than two hundred fifty (250) hours of experience will be credited for actual time spent counseling or crisis counseling on the telephone.

(6) For any person who enrolls in a qualifying degree program on or after January 1, 1990, not less than five hundred (500) total hours of experience shall have been gained in diagnosing and treating couples, families, and children.

(b) The term "supervision", as used in this article, includes ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised; reviewing client/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the intern or trainee; monitoring and evaluating the ability of the intern or trainee to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; and ensuring compliance with laws and regulations governing the practice of marriage and family therapy. Supervision shall include that amount of direct observation, or review of audio or video tapes of therapy, as deemed appropriate by the supervisor. Supervision shall be credited only upon the following conditions:

(1) During each week in which experience is claimed and for each work setting in which experience is gained, an applicant shall have at least one (1) hour of one-on-one, individual, face-to-face supervisor contact or two (2) hours of face-to-face supervisor contact in a group of not more than eight (8) persons receiving supervision. No more than five (5) hours of supervision, whether individual or group, shall be credited during any single week.

(2) The applicant shall have received at least one (1) hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two (52) weeks.

(3) Any experience obtained under the supervision of a spouse, relative, or domestic partner shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal or business relationship which undermines the authority or effectiveness of the supervisor shall not be credited toward the required hours of supervised experience.

(4) In a setting which is not a private practice, the authorized supervisor may be employed by the applicant's

employer on either a paid or a voluntary basis. If such employment is on a voluntary basis, a written agreement must be executed between the supervisor and the organization, prior to commencement of supervision, in which the supervisor agrees to ensure that the extent, kind, and quality of counseling performed by the intern or trainee is consistent with the intern or trainee's training, education, and experience, and is appropriate in extent, kind, and quality. The agreement shall contain an acknowledgment by the employer that the employer:

(A) Is aware of the licensing requirements that must be met by the intern or trainee and agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; and

(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the intern or trainee.

(c) Professional enrichment activities may be credited toward the experience requirement as specified in this article and by Section 4980.43(d)(1) of the Code.

(1) No more than two hundred fifty (250) hours of verified attendance, with the approval of the applicant's supervisor, at workshops, seminars, training sessions, or conferences directly related to marriage and family therapy will be credited.

(2) No more than one hundred (100) hours of psychotherapy, which will be triple counted, received as specified in Section 4980.43(d)(2) of the Code, will be credited.

(d) Experience gained by interns and trainees shall be subject to the following conditions, as applicable:

(1) When an intern employed in private practice is supervised by someone other than the employer, the supervisor must be employed by and practice at the same site(s) as the intern's employer.

(2) A trainee shall not perform services in a private practice.

(3) Interns and trainees may only perform services as employees or volunteers and not as independent contractors.

(e) Effective January 1, 1991, trainees and interns shall maintain a log of all hours of experience gained toward licensure. The log shall be in the form specified below and shall be signed by the supervisor on a weekly basis. An applicant shall retain all logs until such time as the applicant is licensed by the board. The board shall have the right to require an applicant to submit all or such portions of the log as it deems necessary to verify hours of experience.

[See Barclays Official California Code of Regulations for original illustration]

NOTE: Authority cited: Section 4980.35 and 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), and 4980.42 through 4980.45, Business and Professions Code.

History

1. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34). For prior history, see Register 75, No. 39.
2. Amendment filed 10-5-78; effective thirtieth day thereafter (Register 78, No. 40).
3. New subsection (g) filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
4. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
5. Amendment filed 3-19-85; effective thirtieth day thereafter (Register 85, No. 12).
6. Amendment of subsections (a)-(e) filed 2-5-90; operative 2-5-90 (Register 90, No. 8).
7. Repealer of form and new form filed 12-24-92; operative 1-25-93 (Register 93, No. 1).
8. Amendment of section, including repealer and new form, filed 10-31-97; operative 1-1-98 (Register 97, No. 44).
9. The Board of Behavioral Sciences has discovered that the word "hours" was mistakenly duplicated in subsection (c) (2) (filed with the Secretary of State on 10-31-97). However, the duplication was not printed in Barclays Official California Code of Regulations. This action is a change without regulatory effect amending subsection (c) (2) (to remove the duplication from the regulation as filed with the Secretary of State) filed 12-29-97 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 1).
10. Change without regulatory effect amending form filed 4-19-99 pursuant to section 100, Title 1, California Code of Regulations (Register 99, No. 17).
11. Change without regulatory effect amending subsections (b) and (c)(1) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).
12. Change without regulatory effect amending subsections (b) and (c)(1) filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations.

§1833.1. REQUIREMENTS FOR SUPERVISORS

(a) Any person supervising an intern or trainee (hereinafter "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern" revised 2-05 requiring that:

(1) The supervisor possess and maintains a current valid California license as either a marriage and family therapist, licensed clinical social worker, licensed psychologist, or physician who is certified in psychiatry as specified in Section 4980.40 (f) of the Code and has been so licensed in California for at least two years prior to commencing any supervision; or

(A) Provides supervision only to trainees at an academic institution that offers a qualifying degree program as specified in Section 4980.40 (a) of the Code; and

(B) Has been licensed in California as specified in Section 4980.40 (f) of the Code, and in any other state, for a total of at least two years prior to commencing any supervision.

(2) If such supervisor is not licensed as a marriage and family therapist, he or she shall have sufficient experience, training, and education in marriage and family therapy to competently practice marriage and family therapy in California.

(3) The supervisor keeps himself or herself informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the intern or trainee of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or lapse in licensure, that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision and has averaged at least five (5) patient/client contact hours per week.

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise trainees or interns.

(A) Effective January 1, 2000, supervisors who are licensed by the board shall complete a minimum of six (6) hours of supervision training or coursework every two years. This training or coursework may apply towards the continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code.

(B) Supervisors who are licensed by the board who have completed a minimum of six (6) hours of supervision training or coursework between January 1, 1997, and December 31, 1999, may apply that training towards the requirement described in subsection (A).

(C) Supervisors who are licensed by the board who commence supervision on and after January 1, 2000, and have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of trainees and interns and the experience required for licensure as a marriage and family therapist.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the intern or trainee.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the intern or trainee by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the intern or trainee the manner in which emergencies will be handled.

(b) Each supervisor shall provide the intern or trainee with the original signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 2-05 prior to the commencement of any counseling or supervision. The intern shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 2-05 from each supervisor upon application for licensure. The trainee shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 2-05 from each supervisor upon application for internship.

(c) A supervisor shall give at least one (1) week's written notice to an intern or trainee of the supervisor's intent not to certify any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(d) The supervisor shall obtain from any intern or trainee for which supervision will be provided, the name, address, and telephone number of the intern's or trainee's most recent supervisor and employer.

(e) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where an intern or trainee will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of marriage and family therapy; and (2) the experience is in compliance with the requirements set forth in this section.

(f) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(g) The supervisor responsibility statement required by this section shall be used for supervisorial relationships commencing on or after 1-1-98.

(h) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in subsection (a) (6).

NOTE: Authority cited: Section 4980.35, 4980.40(f) 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), 4980.42 through 4980.45, 4980.54 and 4996.22, Business and Professions Code.

History

1. Renumbering of former Section 1833.1 to Section 1833.3 and new Section 1833.1 filed 1-5-90; operative 1-1-91 (Register 90, No. 8). For prior history, see Registers 87, No. 34 and 83, No. 38.

2. Amendment filed 10-31-97; operative 1-1-98 (Register 97, No. 44).

3. Change without regulatory effect amending subsection (a), adding new subsections (a)(11)(E)-(G), repealing and adopting new subsection (a)(12)(E), adding new subsections (a)(12)(F)-(H) and amending subsection (b) filed 4-28-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 18).

4. Amendment of subsections (a)(1), (a)(3), and (a)(4), new subsections (a)(6)(A)-(C), amendment of subsection (b), new subsection (h) and amendment of NOTE file 1-21-99; operative 2-20-99 (Register 99, No. 4).

5. Change without regulatory effect amending subsections (a) and (b) filed 12-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 52.)

6. Change without regulatory effect amending sections (a)(11) – (a)(12)(H) and amending subsections (b) and (e) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

7. Change without regulatory effect amending subsections (a)(2), (a)(3), (a)(6)(B) and (e) filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

8. Change without regulatory effect amending subsections (a) and (b) and "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" form (incorporated by reference) filed 2-21-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 8).

§1833.2. SUPERVISION OF EXPERIENCE GAINED OUTSIDE OF CALIFORNIA

Experience gained outside of California on or after January 1, 1991 must have been supervised in accordance

with the following criteria:

At the time of supervision, the supervisor was licensed or certified by the state in which the supervision occurred and possessed a current license which was not under suspension or probation. The supervisor was licensed or certified by that state, for at least two (2) years prior to acting as supervisor, as either a psychologist, clinical social worker, physician certified in psychiatry as specified in Section 4980.40(f) of the code, or a marriage and family therapist or similarly titled marriage and family practitioner.

In a state which does not license or certify marriage and family therapists or similarly titled marriage and family practitioners, experience may be obtained under the supervision of a person who at the time of supervision held a clinical membership in the American Association of Marriage and Family Therapists for at least two years and who maintained such membership throughout the period of supervision.

Note: Authority cited: Sections 4980.35, 4980.40(f) and 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), 4980.42-4980.45 and 4980.90, Business and Professions Code.

History

1. New section filed 1-5-90; operative 1-5-90 (Register 90, No. 8).
2. Change without regulatory effect amending second and third paragraphs filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).
3. Change without regulatory effect amending third paragraph filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

§1833.3. REEXAMINATION

An applicant who fails any examination may within one (1) year from the date of that failure retake that examination as regularly scheduled without further application upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination unless a new application is filed, meeting all requirements, and required fees are paid.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections 4980.40 and 4980.50, Business and Professions Code.

History

1. Renumbering from section 1861 filed 1-10-73; effective thirtieth day thereafter (Register 73, No. 2).
2. Amendment filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
3. Amendment filed 10-5-78; effective thirtieth day thereafter (Register 78, No. 40).
4. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
5. Renumbering of former section 1833.1 to section 1833.3 filed 1-5-90; operative 1-5-90 (Register 90, No. 8).
6. Amendment of NOTE filed 5-17-90; operative 5-17-90 (Register 90, No. 26).
7. Amendment filed 3-3-2004 as an emergency; operative 3-3-04 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2004 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 3-3-2004 order transmitted to OAL 6-18-04 and filed 7-22-2004 (Register 2004, No. 30).

§1845. UNPROFESSIONAL CONDUCT

As used in Section 4982 of the code, unprofessional conduct includes, but is not limited to:

(a) Performing or holding himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(b) Permitting a trainee or intern under his or her supervision or control to perform or permitting the trainee or intern to hold himself or herself out as competent to perform professional services beyond the trainee's or intern's level of education, training and/or experience.

(c) Failing to comply with the child abuse reporting requirements of Penal Code Section 11166.

(d) Failing to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institutions Code Section 15630.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections 4980.03, 4980.60 and 4982, Business and Professions Code; and Section 11166, Penal Code, and Section 15630, Welfare and Institutions Code.

History

1. New section filed 2-25-72; effective thirtieth day thereafter (Register 72, No. 9).
2. Amendment filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
3. Amendment filed 10-5-78; effective thirtieth day thereafter (Register 78, No. 40).
4. Amendment filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
5. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
6. Change without regulatory effect of NOTE (Register 86, No. 41).
7. New subsection (o) and amendment of NOTE filed 5-7-87; operative 5-7-87 (Register 87, No. 20).
8. Amendment filed 8-10-87; operative 8-10-87 (Register 87, No. 34).
9. Amendment of subsection (c), new subsection (d) and amendment of NOTE filed 5-27-03; operative 6-26-03 (Register 2003, No. 22.)

§1846. MARRIAGE AND FAMILY THERAPIST INTERNS

The registration of each intern shall expire at midnight one year from the last day of the month in which the registration was issued.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections 4980.03(b), 4980.44 and 4984.7(e), Business and Professions Code.

History

1. New section filed 10-5-78; effective thirtieth day thereafter (Register 78, No. 40).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).
4. Amendment filed 8-10-87; operative 8-10-87 (Register 87, No. 34).
5. Change without regulatory effect filed 12-7-87; operative 1-6-88 (Register 87, No. 50).
6. Change without regulatory effect amending section heading filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

ARTICLE 4.5. PROFESSIONAL CORPORATIONS

§1850.6. NAME OF CORPORATION

The wording or abbreviation denoting corporate existence shall be limited to one of the following: "Professional Corporation," "Prof. Corp.," "Corporation," "Corp.," "Incorporated," or "Inc."

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4987.8 and 4998.3, Business and Professions Code.

History

1. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
2. Change without regulatory effect of NOTE (Register 86, No. 41).

§1850.7. SHARES: OWNERSHIP AND TRANSFER

(a) The shares of a marriage and family therapist corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.

(b) The shares of a licensed clinical social worker corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.

(c) Where there are two or more shareholders in a corporation and one of its shareholders dies, or becomes a disqualified person as defined in Section 13401(d) of the Corporations Code, for a period exceeding ninety (90) days, his or her shares shall be sold and transferred to a licensed person or to the issuing corporation, on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder became a disqualified person.

(d) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he or she again ceases to become a disqualified person.

(e) The restrictions of subdivisions (a) or (b) where appropriate and, if appropriate, subdivision (c) of this section shall be set forth in the corporation's by-laws or articles of incorporation.

(f) The income of the corporation attributable to professional, licensed services rendered while a shareholder is a

disqualified person shall not in any manner accrue to the benefit of such shareholder or his or her shares.

(g) The share certificates of the corporation shall contain either:

(1) An appropriate legend setting forth the restriction of subdivision (a) or (b) where appropriate, and where applicable, the restriction of subdivision (c), or

(2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the by-laws or articles of incorporation of the corporation wherein the restrictions are set forth.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4987.9, 4988, 4998.4 and 4998.5, Business and Professions Code; and Sections 13401, 13401.5, 13403 and 13407, Corporations Code.

History

1. Amendment of subsections (b), (c) and (e) filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Amendment filed 3-19-85; effective thirtieth day thereafter (Register 85, No. 12).
4. Change without regulatory effect of NOTE (Register 86, No. 41).
5. Change without regulatory effect amending section (a) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

ARTICLE 5. LICENSED EDUCATIONAL PSYCHOLOGISTS

§1854. EQUIVALENT DEGREES

Degrees deemed equivalent to those specified in Section 4986.20(a) of the Code shall include a master's degree or its equivalent obtained from a college or university accredited by one of the following agencies:

(a) Western Association of Schools and Colleges.

(b) Northwest Association of Secondary and Higher Schools.

(c) Middle States Association of Colleges and Secondary Schools.

(d) New England Association of Colleges and Secondary Schools.

(e) North Central Association of Colleges and Secondary Schools.

(f) Southern Association of Colleges and Schools.

(g) The Credentials Evaluation Service of the International Education Research Foundation, Inc., where it evaluates the foreign degree as being equivalent to the required degree or degrees.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4986.20(a), Business and Professions Code.

History

1. New Article 5 (Sections 1854, 1855, 1856, 1857, 1861 and 1863) filed 6-24-71; effective thirtieth day thereafter (Register 71, No. 26).
2. Amendment filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
3. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
4. Change without regulatory effect (Register 86, No. 41).

§1855. EQUIVALENT EXPERIENCE IN PUPIL PERSONNEL SERVICES

Semester hours in instructing a course in pupil personnel services approved by the board and offered by an institution accredited by one of the accrediting agencies set forth in Section 1854 above shall be deemed equivalent, within the meaning of Section 4986.20(d) of the Code, to semester hours of postgraduate work devoted to pupil personnel services under the following conditions:

- (1) The applicant has instructed the particular course for at least two semesters;
- (2) The particular course has not been submitted by the applicant for credit as a postgraduate course; and
- (3) The particular course is not a practicum or field work course. In addition to the above, the board may, in its discretion, recognize other experience as equivalent to semester hours of postgraduate work devoted to pupil personnel services.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4986.20, Business and Professions Code.

History

- 1. Amendment filed 6-13-74; effective thirtieth day thereafter (Register 74, No. 24).
- 2. Amendment filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
- 3. Change without regulatory effect (Register 86, No. 41).

§1856. EXPERIENCE EQUIVALENT TO THREE (3) YEARS FULL-TIME EXPERIENCE AS CREDENTIALLED SCHOOL PSYCHOLOGIST

- (a) No more than one year of experience will be granted for any 12 month period.
- (b) Part time experience may be accumulated provided that the experience is obtained within six (6) calendar years.
- (c) Experience as a credentialed school psychologist employed by a parochial or private school may, at the board's discretion, be deemed equivalent to experience as a credentialed school psychologist in the public schools.
- (d) Persons meeting this requirement must verify this experience by written statements from their sponsors as specified in Section 4986.20 of the Code. These statements shall include information regarding the applicant's:
 - (1) Skill in the administration of standardized individual tests for subjects varying from three (3) to twenty-one (21) years of age.
 - (2) Skill in the interpretation of results to parents, teachers, administrators, admissions committees, or other appropriate parties.
 - (3) Skill in the classification of subjects for special programming based on existing legislation.
 - (4) Recognition and diagnosis of learning problems with recommendations for solution of the problems.
 - (5) Recognition and amelioration of behavior problems.
 - (6) Interpretation of scores of standardized group tests.
 - (7) Skills in the use of psychological counseling or other therapeutic techniques with children and parents.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4986.20, Business and Professions Code.

History

- 1. Amendment filed 6-13-74; effective thirtieth day thereafter (Register 74, No. 24).
- 2. Amendment filed 1-26-77; effective thirtieth day thereafter (Register 77, No. 5).
- 3. Change without regulatory effect of subsection (d) and new NOTE (Register 86, No. 41).

§1857. EXPERIENCE EQUIVALENT TO ONE YEAR OF SUPERVISED PROFESSIONAL EXPERIENCE

- (a) An applicant who has completed a minimum of seven hundred and twenty (720) clock hours under professional supervision as specified herein in the following experiences shall be deemed to have suitable experience equivalent to one year of supervised professional experience in an accredited school psychology

program, or under the direction of a licensed psychologist:

(1) Utilization of all instruments presented within the prescribed course of study in the educational institution attended, with a wide variety of subjects (generally inclusive of WAIS, WISC, Binet, and group tests).

(2) Administration of additional tests commonly employed in the field by school psychologists.

(3) Consulting with teachers concerning learning and behavior problems of children enrolled in special education programs.

(4) Referral to and use of community agencies.

(5) Oral and written communication of results in accordance with the local supervisor's requirements.

(b) The local supervisor shall consult with the intern at least once weekly during the period of internship and shall:

(1) Possess a valid credential in school psychology; and

(2) Have a minimum of two (2) years experience in the field of school psychology.

(c) The general supervisor shall arrange for and coordinate intern placement with the local supervisor, and shall consult with the intern and/or the local supervisor at least three times during the period of internship. A general supervisor shall be qualified as one of the following:

(1) A credentialed school psychologist;

(2) A licensed psychologist;

(3) A licensed educational psychologist;

(4) A state or accredited training institution designated supervisor of school psychology trainees.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4980.20, Business and Professions Code.

History

1. Amendment filed 6-13-74; effective thirtieth day thereafter (Register 74, No. 24).

2. Change without regulatory effect adding NOTE (Register 86, No. 41).

§1858. UNPROFESSIONAL CONDUCT

The Board may suspend or revoke the license of a licensee who:

(a) Misrepresents the type or status of license held by the licensee.

(b) Impersonates a licensee or who allows another person to use his or her license.

(c) Aids or abets an unlicensed person to engage in conduct requiring a license.

(d) Intentionally or recklessly causes physical or emotional harm to a client.

(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.

(f) When employed by another person or agency, encourages, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(g) Misrepresents or permits the misrepresentation of his or her professional qualifications, affiliations, or purposes.

(h) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of an educational psychologist.

(i) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(j) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

(k) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.

(l) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.

(m) Advertises in a manner which is false or misleading.

(n) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. An Educational Psychologist shall limit access to such test or device to persons with professional interests who can be expected to safeguard their use.

(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.

(p) Fails to comply with the elder and adult dependent abuse reporting requirements of Welfare and Institutions Code Section 15630.

Note: Authority cited: Section 4987, Business and Professions Code. Reference: Sections 730, 4986.70, 4986.71, and 4987, Business and Professions Code; and Section 11166, Penal Code, and Section 15630, Welfare and Institutions Code.

History

1. New section filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).

2. Change without regulatory effect of NOTE (Register 86, No. 41).

3. New subsection (o) and amendment of NOTE filed 5-7-87; operative 5-7-87 (Register 87, No. 20).

4. Amendment of subsections (h), (m), and (o), new subsection (p) and amendment of Note file 5-27-03; operative 6-26-03 (Register 2003, No. 22).

ARTICLE 6. LICENSED CLINICAL SOCIAL WORKERS

§1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS

(a) Any person supervising an associate clinical social worker registered with the board on and after May 10, 1999, (hereinafter called "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 07/05), which requires that:

(1) The supervisor possesses and will maintain a current valid California license as either a licensed clinical social worker or a licensed mental health professional acceptable to the Board as specified in Section 4996.21(a) of the Code and Section 1874 of California Code of Regulations.

(2) The supervisor has and will maintain a current license in good standing and will immediately notify the associate of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or lapse in licensure, that affects the supervisor's ability or right to supervise.

(3) The supervisor has practiced psychotherapy as part of his/her clinical experience for at least two (2) years within the last five (5) years immediately preceding supervision.

(4) The supervisor has had sufficient experience, training and education in the area of clinical supervision to competently supervise associates. Effective January 1, 2001, supervisors who are licensed by the board shall have:

(A) A minimum of fifteen (15) contact hours in supervision training obtained from a state agency or approved continuing education provider. This training may apply towards the approved continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code. The content of such training shall include, but not be limited to:

1. familiarity with supervision literature through reading assignments specified by course instructors;
2. facilitation of therapist-client and supervisor-therapist relationships;
3. evaluation and identification of problems in therapist-client and supervisor-therapist relationships;
4. structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;
5. knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and
6. the practice of clinical social work, including the mandated reporting laws, and knowledge of ethical and legal issues.

(5) The supervisor knows and understands the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.

(6) The supervisor shall ensure that the extent, kind and quality of clinical social work performed is consistent with the training and experience of the person being supervised and shall review client/patient records, monitor and evaluate assessment and treatment decisions of the associate clinical social worker, and monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served, and ensure compliance with all laws and regulations governing the practice of clinical social work.

(7) Effective January 1, 1999, the supervisor and the associate shall develop the "Supervisory Plan" as described in Section 1870.1. of the California Code of Regulations. This original signed plan shall be submitted to the board upon application for licensure.

(8) The supervisor shall provide the board with the original, signed "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 09-01), within 30 days of commencement of any supervision. A copy of this form shall be provided to the associate by the supervisor.

(9) A supervisor shall give at least one (1) week's written notice to an associate of the supervisor's intent not to certify any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(10) Effective January 1, 1999, the supervisor shall complete an assessment of the ongoing strengths and

limitations of the associate. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor.

(11) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Section 4996.21, Business and Professions Code.

History

1. New section filed 5-10-99; operative 5-10-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20)
2. Change without regulatory effect amending subsections (a) and (a)(8) filed 10-16-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, no. 42.)
3. Change without regulatory effect amending subsections (a), (a)(1) and (a)(7)-(8), repealing subsection (a)(10), relettering subsections and amending "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form (incorporated by reference) filed 10-20-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).
4. Change without regulatory effect amending subsections (a) and (a)(8) and "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form (incorporated by reference) filed 2-21-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 8).

§1870.1. SUPERVISORY PLAN

(a) On and after January 1, 1999, all associate clinical social workers and licensed clinical social workers or licensed mental health professionals acceptable to the board as defined in Section 1874 who assume responsibility for providing supervision shall develop a supervisory plan that describes the goals and objectives of supervision and shall complete and sign under penalty of perjury the "Supervisory Plan", (form no. 1800 37A-521, revised 07/05), hereby incorporated by reference.

(b) This supervisory plan shall be completed by each supervisor providing supervision and the original signed plan shall be submitted by the associate clinical social worker to the board upon application for licensure.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Sections 4996.18 and 4996.21, Business and Professions Code.

History

1. New section filed 12-23-98 as an emergency; operative 1-1-99 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-3-99 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction moving section 1870.1 from article 5 to article 6 (Register 99, No. 4).
3. Certificate of Compliance as to 12-23-98 order, including amendments of subsection (a) and NOTE, transmitted to OAL 4-6-99 and filed 5-11-99 Register 99, No. 20)

§1874. DEFINITION OF ACCEPTABLE MENTAL HEALTH PROFESSIONALS

For purposes of Sections 4996.20(b) and 4996.21(a), a licensed mental health professional acceptable to the board is one who, at the time of supervision, has possessed for at least two years a valid license as a psychologist, marriage and family therapist or physician certified in psychiatry by the American Board of Psychiatry and Neurology.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Sections 4996.20 and 4996.21, Business and Professions Code.

History

1. New section filed 12-18-89; operative 12-18-89 pursuant to Government Code Section 11346.2(d) (Register 89, No. 51).
2. Change without regulatory effect amending section and NOTE filed 4-19-99 pursuant to section 100, Title 1, California Code of Regulations (Register 99, No. 17).
3. Change without regulatory effect amending section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1877. EXAMINATIONS

The written examinations shall consist of the following:

(a) A standard written examination designed to determine an applicant's knowledge, familiarity with the field, and practical understanding of the principles, techniques, objectives, theory and laws under which he or she must operate; and

(b) A written clinical vignette examination designed to assess the applicant's judgment, knowledge of the application of psychosocial and psychotherapeutic methods and measures in treatment, and ability to assume

professional responsibilities.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Section 4992.1, Business and Professions Code.

History

1. New section filed 7-6-73; effective thirtieth day thereafter (Register 73, No. 27.)
2. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34).
3. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
4. Change without regulatory effect of NOTE (Register 86, No. 41).
5. Amendment filed 3-3-2004 as an emergency; operative 3-3-04 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-3-2004 order transmitted to OAL 6-18-04 and filed 7-22-2004 (Register 2004, No. 30).

§1880. UNLICENSED ASSISTANTS

An unlicensed person employed under Section 4996.15 of the Code to perform limited social work functions shall inform each patient or client prior to performing any such functions that he or she is not a licensed clinical social worker and is under the supervision of a licensed clinical social worker, a licensed psychologist or a licensed psychiatrist, whichever is applicable.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Section 4996.15, Business and Professions Code.

History

1. Repealer of subsection (b) filed 7-6-73; effective thirtieth day thereafter (Register 73, No. 27).
2. Amendment filed 8-20-76; effective thirtieth day thereafter (Register 76, No. 34).
3. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
4. Change without regulatory effect (Register 86, No. 41).
5. Change without regulatory effect amending section and NOTE filed 4-19-99 pursuant to section 100, Title 1, California Code of Regulations (Register 99, No. 17).

§1881. UNPROFESSIONAL CONDUCT

The board may suspend or revoke the license of a licensee or may refuse to issue a license to a person who:

- (a) Misrepresents the type or status of license held by such person or otherwise misrepresents or permits the misrepresentation of his or her professional qualifications or affiliations.
- (b) Impersonates a licensee or who allows another person to use his or her license.
- (c) Aids or abets an unlicensed person to engage in conduct requiring a license.
- (d) Intentionally or recklessly causes physical or emotional harm to a client.
- (e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.
- (f) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of a Licensed Clinical Social Worker.
- (g) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.
- (h) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.
- (i) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.

(j) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.

(k) Advertises in a manner which is false or misleading.

(l) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. The licensee shall limit access to such test or device to persons with professional interest who are expected to safeguard their use.

(m) Commits an act or omission which falls sufficiently below that standard of conduct of the profession as to constitute an act of gross negligence.

(n) Pays, accepts or solicits any consideration, compensation or remuneration for the referral of professional clients. All consideration, compensation or remuneration must be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for such collaboration except when disclosure of such fee is made in compliance with subparagraph (j) above.

(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.

(p) Fails to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Sections 4990.14, 4992.3, 4992.33 and 4996.11, Business and Professions Code; Section 11166, Penal Code, and Section 15630, Welfare and Institution Code.

History

1. New section filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
2. Amendment filed 9-15-83; effective thirtieth day thereafter (Register 83, No. 38).
3. Change without regulatory effect of NOTE (Register 86, No. 41).
4. New subsection (o) and amendment of NOTE filed 5-7-87; operative 5-7-87 (Register 87, No. 20).
5. Amendment of subsection (o), new subsection (p) and amendment of NOTE filed 5-27-03; operative 6-26-03 (Register 2003, No. 22).

ARTICLE 7. CITATIONS AND FINES

§1886. AUTHORITY TO ISSUE CITATIONS AND FINES

The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by a licensed marriage and family therapist (MFT), licensed educational psychologist (LEP), licensed clinical social worker (LCSW), MFT Intern, or Associate Clinical Social Worker of the statutes and regulations enforced by the Board of Behavioral Sciences.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

History

1. New article 7 (sections 1886-1886.80) and section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).
2. Change without regulatory effect amending section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1886.10. CITATIONS FOR UNLICENSED PRACTICE

The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 302(d) of the Code, who are performing or who have performed services for which a license is required under the statutes and regulations enforced by the Board of Behavioral Sciences. Each citation issued for unlicensed

activity shall contain an order of abatement. Where appropriate, the executive officer shall levy a fine for such unlicensed activity in accordance with section 1886.40 of these regulations. The provisions of sections 1886-1886.80 shall apply to the issuance of citations for unlicensed activity under this section. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 125.95, 148, 149 and 302(d), Business and Professions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

§1886.20. CITATION FORMAT

A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of each violation, including a reference to the statute(s) or regulation(s) alleged to have been violated. The citation shall inform the cited person of the right to contest the citation. The citation shall be served upon the cited person personally or by certified mail in accordance with the provisions of Section 11505 (c) of the Government Code.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

§1886.30. CITATION FACTORS

In assessing an administrative fine or issuing an order of abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation.
- (b) The good or bad faith exhibited by the cited person.
- (c) The history of previous violations of the same or similar nature.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person has cooperated with the board's investigation.
- (f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by the violation.
- (g) Any other factors as justice may require.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

§1886.40. AMOUNT OF FINES

(a) For purposes of this section, a "citable offense" is defined as any violation of the statutes and regulations enforced by the Board of Behavioral Sciences, including Chapters 13 and 14 of Division Two of the Business and Professions Code and Title 16, Division 18, California Code of Regulations.

(b) The executive officer of the board may assess fines for citable offenses which shall not exceed two thousand five hundred dollars (\$2,500) for each investigation except as otherwise provided in this section. The executive officer shall not impose any duplicate fines for the same violation.

(c) The executive officer of the board may assess fines for citable offenses which shall not exceed five thousand (\$5,000) for each investigation if the violation or count includes one or more of the following circumstances:

- (1) The cited person has a history of two or more prior citations for similar violations, except for citations withdrawn or dismissed after appeal.
- (2) The citation involves multiple violations that demonstrate a willful disregard of the statutes or regulations.
- (3) The citation is for a violation or violations involving a minor, elder or dependent adult, or a person with a physical or mental disability as defined in Section 12926 of the Government Code.
- (4) The citation involves unlicensed practice.
- (5) The citation involves an unlawful or unauthorized breach of confidentiality.

(d) The executive officer of the board may assess fines which shall not exceed five thousand dollars (\$5,000) for each violation or count if the violation or count involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

Note: Authority cited: Sections 125.9, 148, 149, 4980.60, 4987 and 4990.14, Business and Professions Code. Reference: Sections 123, 125, 125.9, 136, 141, 148, 149, 480, 651, 654.2, 703, 728, 4980, 4980.02, 4980.30, 4980.43, 4980.44, 4980.45, 4980.46, 4980.48, 4982, 4982.25, 4984, 4986.10, 4986.50, 4986.70, 4987.7, 4987.8, 4987.9, 4988, 4988.1, 4988.5, 4992.3, 4992.36, 4996, 4996.5, 4996.7, 4996.8, 4996.9, 4996.16, 4996.18, 4996.19, 4996.20, 4998.2, 4998.3, 4998.4, Business and Professions Code; and Section 15630, Welfare and Institutions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).
2. Amendment of section heading, section and NOTE filed 8-4-2006; operative 9-3-2006 (Register 2006, No. 31).

§1886.50. EXCEPTIONS

A citation shall not be issued in any of the following circumstances:

- (a) The violation is of such a nature and/or severity that revocation of the license or restrictions on the cited person are necessary in order to ensure consumer protection.
- (b) The cited person failed to comply with any requirement of any previous citation, including any order of abatement or fine.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

§1886.60. COMPLIANCE WITH CITATION/ORDER OF ABATEMENT

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the cited person may request an extension of time in which to complete the correction from the executive officer of the board. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) If a citation is not contested, or if the citation is contested and the cited person does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial action being taken against the cited person.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and fine.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code; Section 11505(c), Government Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

§1886.70. CONTESTED CITATIONS AND REQUEST FOR A HEARING OR INFORMAL CITATION CONFERENCE

(a) If a cited person wishes to contest the citation, assessment of the administrative fine, or order of abatement, the cited person shall, within thirty (30) days after service of the citation, file in writing a request for an administrative hearing to the executive officer regarding the acts charged in the citation, as provided for in subdivision (b)(4) of Section 125.9 of the Code.

(b) In addition to or instead of requesting an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, the cited person may, within 30 days after service of the citation, contest the citation by submitting a written request for an informal citation conference to the executive officer or his/her designee.

(c) Upon receipt of a written request for an informal citation conference, the executive officer or his/her designee shall, within 60 days, hold an informal citation conference with the cited person. The cited person may be accompanied and represented at the informal citation conference by an attorney or other authorized representative.

(d) If an informal citation conference is held, the request for an administrative hearing shall be deemed to be withdrawn and the executive officer or his/her designee may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued, at the conclusion of the informal citation conference. If affirmed or modified, the citation originally issued shall be considered withdrawn and an affirmed or modified citation, including reasons for the decision, shall be issued. The affirmed or modified citation shall be mailed to the cited person and his/her counsel, if any, within 10 days from the date of the informal citation conference.

(e) If a cited person wishes to contest an affirmed or modified citation, the cited person shall, within 30 days after service of the citation, contest the affirmed or modified citation by submitting a written request for an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, to the executive officer or his or her designee. An informal citation conference shall not be held on affirmed or modified citations.

NOTE: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

§1886.80. DISCONNECTION OF TELEPHONE SERVICE

Nothing in this section shall preclude the board from using the provisions of Section 149 of the Code in addition to any citation issued to an unlicensed person.

Note: Authority cited: Sections 125.9, 148, 149 and 4980.60, 4987, 4990.14, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

History

1. New section filed 1-17-97; operative 2-16-97 (Register 97, No. 3).

ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS AND LICENSED CLINICAL SOCIAL WORKERS

§1887. DEFINITIONS

As used in this article:

(a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.

(b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).

(c) A continuing education "provider" means an accredited or approved school, or an association, health facility, governmental entity, educational institution, individual, or other organization that offers continuing education courses and meets the requirements contained in this article.

(d) A "renewal period" means the two-year period which spans from a license's expiration date to the license's next expiration date.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New article 8 (sections 1887-1887.12) and section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. Editorial correction of article heading (Register 98, No. 9).
3. Amendment of subsections (a) and (b) filed 1-16-2003; operative 2-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No.3).
4. Change without regulatory effect amending article heading filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1887.1. LICENSE RENEWAL REQUIREMENTS

(a) Except as provided in Section 1887.2, a licensee shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed thirty-six (36) hours of continuing education credit as set forth in Sections 4980.54 and 4996.22 of the Code.

(b) A licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify completion of continuing education by producing a record of course completion, upon request by the board, is subject to disciplinary action under Sections 4982(b) and 4992.3(b) of the Code.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS

(a) An initial licensee shall complete at least eighteen (18) hours of continuing education, of which no more than six (6) hours may be earned through self-study courses, prior to his or her first license renewal.

(b) A licensee is exempt from the continuing education requirement if their license is inactive pursuant to Sections 4984.8 and 4997 of the Code.

(c) A licensee may submit a written request for exception from the continuing education requirement for any of the reasons listed below. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception, whether the exception was granted. If the request for exception is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:

(1) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;

(2) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or

(3) During the licensee's previous renewal period, the licensee or an immediate family member, where the licensee has primary responsibility for the care of that family member, was suffering from or suffered a disability. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. The disability must be verified by a licensed physician or psychologist with special expertise in the area of the disability. Verification of the disability must include:

(A) the nature and extent of the disability;

(B) an explanation of how the disability would hinder the licensee from completing the continuing education requirement; and

(C) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.

Note: Authority Cited: Sections 4980.54, 4980.60, 4990.14, and 4996.22, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No..21).
2. Change without regulatory effect amending subsection (b) filed 4-19-99 pursuant to section 100, Title 1, California Code of Regulations (Register 99, No. 17).

§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS

(a) A licensee shall accrue at least thirty-six (36) hours of continuing education courses as defined in Section 1887.4. A licensee may accrue no more than twelve (12) hours of continuing education earned through self-study courses during a single renewal period.

(b) Pursuant to Section 29 of the Code, a licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above.

Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(c) Pursuant to Section 32 of the Code, a licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees.

Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement;

however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(d) Any person renewing his or her license on and after January 1, 2004 shall have completed not less than six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

(e) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.

(f) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.

(g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 29, 32, 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. New subsection (d) and subsection relettering filed 12-4-01; operative 1-1-2002 pursuant to Government Code section 11343.4 (Register 2001, No. 49).

§1887.4. CONTINUING EDUCATION COURSE CONTENT

(a) A provider shall ensure that the content of a course shall be relevant to the practice of marriage and family therapy or clinical social work and meet the requirements set forth in Sections 4980.54 and 4996.22 of the Code. The content of a course shall also be related to direct or indirect patient/client care.

(1) Direct patient/client care courses cover specialty areas of therapy (e.g., theoretical frameworks for clinical practice; intervention techniques with individuals, couples, or groups).

(2) Indirect patient/client care courses cover pragmatic aspects of clinical practice (e.g., legal or ethical issues, consultation, recordkeeping, office management, insurance risks and benefits, managed care issues, research obligations, supervision training).

(b) A provider shall ensure that a course has specific objectives that are measurable.

(c) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. Change without regulatory effect amending subsection (a) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).
3. Change without regulatory effect amending subsection (a) filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

§1887.5. HOURS OF CONTINUING EDUCATION CREDIT

(a) One hour of instruction is equal to one hour of continuing education credit.

(b) One academic quarter unit is equal to ten (10) hours of continuing education credit.

(c) One academic semester unit is equal to fifteen (15) hours of continuing education credit.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

§1887.6. CONTINUING EDUCATION PROVIDERS

A continuing education course shall be taken from:

(a) an accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1) or 4996.22(d)(1) of the Code; or

(b) a board-approved provider with a valid, current approval as provided in Section 1887.7.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

§1887.7. BOARD-APPROVED PROVIDERS

(a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) A continuing education provider shall submit a completed Continuing Education Provider Application (form no. 37A-633, new 5/97), hereby incorporated by reference, remit the appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.

(c) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.

A provider approval which is not renewed by the expiration date may not be renewed, restored, reinstated, or reissued thereafter, but the provider may apply for a new approval.

(d) Board-approved provider status is non-transferable.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. Change without regulatory effect amending subsection (b) filed 4-19-99 pursuant to section 100, Title 1, California Code of Regulations (Register 99, No. 17).

§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS

(a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:

(1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;

(2) a provider, who is a licensee of the board, fails to comply with any provisions of Chapters 13 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations; or

(3) a provider makes a material misrepresentation of fact in information submitted to the board.

(b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial. The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point.

Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven (7) days after receipt of the decision of the board's designee, and request a hearing with a continuing education appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The continuing education appeals committee shall contain three board members, one public member and two members representing two of the three license types regulated by the board. The decision of the continuing education appeals committee is final.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).

§1887.9. COURSE ADVERTISEMENTS

A provider shall ensure that information publicizing a continuing education course is accurate and includes the following:

- (a) the provider's name;
- (b) the provider number, if a board-approved provider;
- (c) the statement "Course meets the qualifications for _____ hours of continuing education credit for MFTs and/or LCSWs as required by the California Board of Behavioral Sciences";
- (d) the provider's policy on refunds in cases of non-attendance by the registrant; and
- (e) a clear, concise description of the course content and objectives.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. Change without regulatory effect amending subsection (c) filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1887.10. COURSE INSTRUCTOR QUALIFICATIONS

(a) A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:

- (1) a license, registration, or certificate in an area related to the subject matter of the course. The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by this board or any other health care regulatory agency;
- (2) a master's or higher degree from an educational institution in an area related to the subject matter of the course;
- (3) training, certification, or experience in teaching subject matter related to the subject matter of the course; or
- (4) at least two years' experience in an area related to the subject matter of the course.

(b) During the period of time that any instructor has a healing arts license that is restricted pursuant to a disciplinary action in California or in any other state or territory, that instructor shall notify all approved continuing education providers for whom he or she provides instruction of such discipline before instruction begins or immediately upon notice of the decision, whichever occurs first.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54, 4982.15 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. Amendment redesignating first paragraph as subsection (a) and former subsections (a)-(d) as new subsections (a)(1)-(4), adding new subsection (b) and amending NOTE filed 8-17-99; operative 9-16-99 (Register 99, No.34).

§1887.11. RECORDS OF COURSE COMPLETION

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the following information:

- (a) name of licensee and license number or other identification number;
- (b) course title;
- (c) provider name and address;
- (d) provider number, if a board-approved provider;
- (e) date of course;
- (f) number of hours of continuing education credit; and
- (g) signature of course instructor, provider, or provider designee.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).

§1887.12. LICENSEE AND PROVIDER COURSE RECORDS

(a) A licensee shall maintain records of course completion for a period of at least two (2) years from the date of license renewal for which the course was completed.

(b) A provider shall maintain records related to continuing education courses for a period of at least four (4) years.

Records shall include:

- (1) syllabi for all courses;
- (2) the time and location of all courses;
- (3) course advertisements;
- (4) course instructors' vitae or resumes;
- (5) attendance rosters with the names and license numbers of licensees who attended the courses;
- (6) sign-in sheets; and
- (7) records of course completion issued to licensees who attended the courses.

(c) The board may audit the course records of a provider to ensure compliance with the board's continuing education requirements.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections s4980.54 and 4996.22, Business and

ARTICLE 9. DISCIPLINARY GUIDELINES

§1888. DISCIPLINARY GUIDELINES

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Behavioral Sciences shall consider the disciplinary guidelines entitled "Board of Behavioral Sciences Disciplinary Guidelines" [Rev. May 21, 2004] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Note: Authority cited: Sections 4980.60, 4987, and 4990.14, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 4982, 4986.70, and 4992.3, Business and Professions Code; and Sections 11400.20, and 11425.50(e), Government Code.

History

1. New article 9 (section 1888) and section filed 7-1-97; operative 7-1-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 27).
2. Amendment of the document, "Board of Behavioral Sciences Disciplinary Guidelines" (incorporated by reference) and amendment of section and Note filed 3-25-2002; operative 4-24-2002 (Register 2002, No. 13).
3. Amendment of the document "Board of Behavioral Sciences Disciplinary Guidelines" and amendment of section and NOTE filed 7-22-2005; operative 8-21-2005 (Register 2005, No.29).

ARTICLE 10. GROUP ADVERTISING AND REFERRAL SERVICES FOR MARRIAGE AND FAMILY THERAPIST

§1889. DEFINITIONS

An "MFT referral service" means a group advertising and referral service for marriage and family therapists as provided for in Section 650.4 of the Code.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

History

1. New article 10 (sections 1889-1889.3) and section filed 11-5-97; operative 12-5-97 (Register 97, No. 45).
2. Change without regulatory effect amending article heading and section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).
3. Change without regulatory effect amending section filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

§1889.1. REGISTRATION

(a) The board shall issue a registration for an MFT referral service to an applicant who submits:

(1) a completed MFT Referral Service Registration Application (form no. 37A-309, new 8/97), hereby incorporated by reference;

(2) a copy of the service's standard form contract regulating its relationship with member marriage and family therapists, demonstrating compliance with Section 650.4 of the Code and this article; and

(3) a copy of the service's advertising, demonstrating compliance with Section 650.4 of the Code and this article.

(b) An MFT referral service registration issued under this section shall remain valid until suspended or revoked, or until the MFT referral service notifies the board in writing that the service has discontinued referrals to any marriage and family therapists and no longer desires registration, provided there are no pending disciplinary actions on the MFT referral service's registration.

(c) It is unlawful for any MFT referral service to make referrals to participating or member marriage and family therapists unless at the time of so doing such service holds a registration that is valid and in good standing.

(d) An MFT referral service registration is non-transferable.

(e) An MFT referral service shall notify the board within thirty (30) days concerning any changes or modifications to the service's standard form contract regulating its relationship with member marriage and family therapists, providing a copy of the new contract to the board.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

History

1. New section filed 11-5-97; operative 12-5-97 (Register 97, No. 45).
2. Change without regulatory effect amending section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).
3. Change without regulatory effect amending subsections (a)(2), (b), (c) and (e) filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

§1889.2. REVOCATION OR DENIAL OF REGISTRATION

(a) The board may revoke its registration of an MFT referral service or deny an MFT referral service application for good cause. For the purposes of this subsection, "responsible party" includes any owner, co-owner, or member on the board of directors of an MFT referral service. Good cause includes, but is not limited to, the following:

(1) the responsible party of an MFT referral service is convicted of a felony or misdemeanor offense substantially related to the activities of an MFT referral service;

(2) the responsible party of an MFT referral service, who is a licensee of the board, fails to comply with any provisions of Chapters 13 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations;

(3) an MFT referral service fails to comply with any provisions of Sections 650, 650.4, or 651 of the Code or these regulations; or

(4) an MFT referral service makes a material misrepresentation of fact in information submitted to the board.

(b) After a thorough case review, should the board decide to revoke or deny its registration of an MFT referral service, it shall give the MFT referral service written notice setting forth its reasons for revocation or denial. The MFT referral service may appeal the revocation or denial in writing, within fifteen (15) days after service of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point.

Should the board's designee decide to uphold the revocation or denial, the MFT referral service may appeal the decision of the board's designee in writing, within fifteen (15) days after service of the decision of the board's designee, and request a hearing with a referral services appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The referral services appeals committee shall contain three board members, one of whom shall be a public member, and two of whom shall be members representing two of the three license types regulated by the board. The decision of the referral services appeals committee is final.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

History

1. New section filed 11-5-97; operative 12-5-97 (Register 97, No. 45).
2. Change without regulatory effect amending section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).

§1889.3. ADVERTISING AND REFERRAL GUIDELINES

(a) An MFT referral service shall advertise and make referrals in accordance with Sections 650.4 and 651 of the Code and Section 1811 of these regulations.

(b) An MFT referral service shall only make referrals to marriage and family therapists with current, valid licenses. Referrals made to marriage and family therapists on probation shall be made in accordance with the terms of probation set by the board.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

History

1. New section filed 11-5-97; operative 12-5-97 (Register 97, No. 45).
2. Change without regulatory effect amending section filed 4-25-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 17).
3. Change without regulatory effect amending subsection (b) filed 10-18-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 42).

MISCELLANEOUS CODE SECTIONS

The following sections of law are NOT provided in this handbook, but may also apply: Business and Professions Code Sections 25, 28, 29, 29.5, 30, 31, 32, 118, 119, 123, 123.5, 125, 125.3, 125.6, 141, 149, 166, 475, 476, 477, 478, 480, 481, 482, 484, 485, 486, 487, 490, 490.5, 491, 492, 493, 494, 495, 496, 498, 499, 650, 650.4, 651, 652, 700, 701, 702, 703, 704, 726, 728, 729, 810, 820, 821, 822, 823, 17500, 17500.1, 17500.5, 17535, 17535.5, and 17536.

BUSINESS AND PROFESSIONS CODE OF CALIFORNIA

§28. TRAINING FOR CHILD ABUSE ASSESSMENT AND REPORTING; LICENSING PREREQUISITES

The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with child abuse victims, potential child abuse victims, and child abusers and potential child abusers are provided with adequate and appropriate training regarding the assessment and reporting of child abuse which will ameliorate, reduce, and eliminate the trauma of child abuse and neglect and ensure the reporting of child abuse in a timely manner to prevent additional occurrences.

The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage and family therapist on or after January 1, 1987. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal on or after January 1, 1987.

All persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage and family therapist on or after January 1, 1987, shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting which meets the requirements of this section, including detailed knowledge of Section 11165 of the Penal Code. The training shall meet all of the following requirements:

(a) Be completed after January 1, 1983.

(b) Be obtained from one of the following sources:

(1) An accredited or approved educational institution, as defined in Sections 2902, 4980.40, and 4996.18, including extension courses offered by those institutions.

(2) A continuing education provider approved by the responsible board.

(3) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

(c) Have a minimum of 7 contact hours.

(d) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(e) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from the requirements of this section and who shows to the satisfaction of the board that there would be no need for the training in his or her practice because of the nature of that practice.

It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, or marriage and family therapist have minimal but appropriate training in the areas of child abuse assessment and reporting. It is not intended that by solely complying with the requirements of this section, a practitioner is fully trained in the subject of treatment of child abuse victims and abusers.

(f) This section shall become operative on January 1, 1997.

§29. CHEMICAL DEPENDENCY AND EARLY INTERVENTION TRAINING; CONTINUING EDUCATION REQUIREMENTS

(a) The Board of Psychology and the Board of Behavioral Sciences shall consider adoption of continuing education requirements including training in the area of recognizing chemical dependency and early intervention for all persons applying for renewal of a license as a psychologist, clinical social worker, or marriage and family therapist.

(b) Prior to the adoption of any regulations imposing continuing education relating to alcohol and other chemical dependency, the board and committee are urged to consider coursework to include, but not necessarily be limited to, the following topics:

- (1) Historical and contemporary perspectives on alcohol and other drug abuse.
- (2) Extent of the alcohol and drug abuse epidemic and its effects on the individual, family, and community.
- (3) Recognizing the symptoms of alcoholism and drug addiction.
- (4) Making appropriate interpretations, interventions, and referrals.
- (5) Recognizing and intervening with affected family members.
- (6) Learning about current programs of recovery, such as 12 step programs, and how therapists can effectively utilize these programs.

§32. LEGISLATIVE FINDINGS; AIDS TRAINING IN CONTINUING EDUCATION REQUIREMENTS FOR SPECIFIED LICENSES

(a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have or intend to have significant contact with patients who have, or are at risk to be exposed to, acquired immune deficiency syndrome (AIDS) are provided with training in the form of continuing education regarding the characteristics and methods of assessment and treatment of the condition.

(b) A board vested with the responsibility of regulating the following licensees shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) in any continuing education or training requirements for those licensees: chiropractors, medical laboratory technicians, dentists, dental hygienists, dental assistants, physicians and surgeons, podiatrists, registered nurses, licensed vocational nurses, psychologists, physician assistants, respiratory therapists, acupuncturists, marriage and family therapists, licensed educational psychologists, and clinical social workers.

§125.3. INVESTIGATION AND ENFORCEMENT COSTS; PAYMENT BY LICENTIATE

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a licentiate, investigation and prosecution costs for a disciplinary proceeding against the licentiate. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

§480. ACTS DISQUALIFYING APPLICANT

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

§485. PROCEDURE BY BOARD UPON DENIAL OF APPLICATION FOR LICENSE

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

(a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

§651. PUBLIC COMMUNICATION CONTAINING FALSE, FRAUDULANT, MISLEADING, OR DECEPTIVE STATEMENT, CLAIM, OR IMAGE; ADVERTISEMENTS; PENALTY

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not

limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a

licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

§726. SEXUAL ABUSE, MISCONDUCT, OR RELATIONS WITH A PATIENT

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

§727. EVIDENCE

The provisions of subdivision (2) of Section 1103 of the Evidence Code shall apply in disciplinary proceedings brought against a licensee for acts in violation of Section 726.

§728. PRIOR SEXUAL CONTACT BETWEEN PSYCHOTHERAPIST AND PATIENT; PSYCHOTHERAPIST OR EMPLOYER PROVIDING AND DISCUSSING BROCHURE; FAILURE TO COMPLY WITH SECTION; DEFINITIONS

(a) Any psychotherapist or employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact with a previous psychotherapist during the course of a prior treatment, shall provide to the patient a brochure promulgated by the department that delineates the rights of, and remedies for, patients who have been involved sexually with their psychotherapist. Further, the psychotherapist or employer shall discuss with the patient the brochure prepared by the department.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) "Psychotherapist" means a physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a marriage and family therapist, a psychological assistant, marriage and family therapist registered intern or trainee, or associate clinical social worker.

(2) "Sexual contact" means the touching of an intimate part of another person.

(3) "Intimate part" and "touching" have the same meaning as defined in subdivisions (f) and (d), respectively, of Section 243.4 of the Penal Code.

(4) "The course of a prior treatment" means the period of time during which a patient first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the patient as being within his or her scope of practice, until the psychotherapist-patient relationship is terminated.

§729. SEXUAL EXPLOITATION BY PHYSICIANS, SURGEONS, PSYCHOTHERAPISTS, OR ALCOHOL AND DRUG ABUSE COUNSELORS

(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor is a public offense:

(1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) An act or acts in violation of subdivision (a) with two or more victims shall be punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(4) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(5) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars (\$10,000).

For purposes of subdivision (a), in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification.

(c) For purposes of this section:

(1) "Psychotherapist" has the same meaning as defined in Section 728.

(2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself out to be an alcohol or drug abuse professional or paraprofessional.

(3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse.

(4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of the Penal Code.

(d) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor.

(e) This section does not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

(f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in a professional partnership or similar group has sexual contact with a patient in violation of this section, another physician and surgeon, psychotherapist, or alcohol and drug abuse counselor in the partnership or group shall not be subject to action under this section solely because of the occurrence of that sexual contact.

§820. EXAMINATION; REPORT

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

§2290.5. TELEMEDICINE; INFORMED CONSENT PROCEDURES; WRITTEN CONSENT STATEMENT; COMPLIANCE; APPLICATION OF SECTION

(a) (1) For the purposes of this section, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient constitutes "telemedicine" for purposes of this section.

(2) For purposes of this section, "interactive" means an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805.

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient or the patient's legal representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decisionmaking shall apply. For purposes of this section, "surrogate decisionmaking" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

(k) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

CALIFORNIA PENAL CODE

§11166. CHILD ABUSE AND NEGLECT REPORTING; DUTY; TIME

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make a report to the agency immediately or as soon as is practicably possible by telephone, and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone, and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation for the purpose of sexual stimulation of the viewer.

(4) Sadoomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

CALIFORNIA HEALTH AND SAFETY CODE

§123110. INSPECTION AND COPYING; VERIFICATION OF IDENTITY; RETENTION AND QUALITY OF RECORDS; LIABILITY FOR DISCLOSURE; VIOLATIONS; PENALTIES

(a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) (1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, any patient or former patient or the patient's representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal regarding eligibility for a public benefit program. These programs shall be the Medi-Cal program, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits. For purposes of this subdivision, "relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

(2) Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his or her record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal. For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If the patient's appeal regarding eligibility for a public benefit program specified in subdivision (d) is successful, the hospital or other health care provider may bill the patient, at the rates specified in subdivisions (b) and (c), for the copies of the medical records previously provided free of charge.

(f) If a patient or his or her representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(g) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights that a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(h) This chapter shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(i) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(j) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (i).

CALIFORNIA WELFARE AND INSTITUTIONS CODE

§15630. ELDER ABUSE REPORTING

(a) Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall

report the known or suspected instance of abuse by telephone immediately or as soon as practicably possible, and by written report sent within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsperson or the local law enforcement agency.

Except in an emergency, the local ombudsperson and the local law enforcement agency shall, as soon as practicable, do all of the following:

(i) Report to the State Department of Health Services any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Health Services and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1).

For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsperson, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsperson program. Except in an emergency, the local ombudsperson shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder or dependent adult's care, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 of the Welfare and Institutions Code discovers the offense.

(i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.

INDEX

All sections in the Index are Business and Professions Code (Sections 28, 29., 32., 125.3., 480., 485., 651., 726.-729., 820., 2290.5., 4980.-4998.6.) or Title 16, California Code of Regulations (Sections 1800.-1889.3.) unless otherwise indicated.

A

ABANDONMENT OF APPLICATION	4984.7.(h), 4989.22.(b), 4996.4., 1833.3, 1806.
ACCREDITED SCHOOL OF SOCIAL WORK	4991.2.
ACCREDITING AGENCIES	1832.
ACCUSATIONS (Statute of Limitations)	4990.32
Clinical Social Worker and Associate	4992.31.
Educational Psychologist	4990.32.
Marriage and Family Therapist and Intern	4982.05.
ADDITIONAL COURSEWORK (see COURSEWORK, ADDITIONAL)	
ADDRESS OF RECORD	1804.
ADMINISTRATION	CHAPTER 13.7
Administration and Enforcement of Chapter	4980.07., 4990.12.
Board Members (also see BOARD MEMBERS)	4990.
Board Seal	4990.14.
Delegation of Certain Functions	1803.
Duties of the Board	4980.35., 4990.12., 4990.24.
Employees	4980.70., 4990.06
Executive Officer (also see EXECUTIVE OFFICER)	4990.04.
Personnel	4980.70., 4990.06.
Powers and Duties of Board	4990.12., 4990.20., 4990.24.
Public Protection	4990.16.
Records of Applicants and Licensees	4990.08.
Research and Studies	4990.10.
Resources, Use of	4990.18.
Revenue	
Appropriation of Funds	4984.6.(a)
Expenditures	4990.22.(b), 4994.
Records of Funds	4984.6.(b), 4990.22.(b)
Reduction of Fees	4994.1.
Report and Payment of Revenue	4984.5.
Surplus Funds	4984.6.(c), 4990.22.(c)
Rules and Regulations	4980.60.; 4989.18., 4990.20.
Sunset	4989., 4990.(i), 4990.04.(f), 4990.24.
Title of Board	4990.2., 4990.26.
ADVERTISING	
Associate Clinical Social Worker	1811.(d)
Continuing Education Course Advertisements	1887.9.
Definition	4980.03.(e)
Display of License/Renewal Receipt (see DISPLAY OF LICENSE)	
False and Misleading Advertisements	
Clinical Social Worker and Associate	651., 4992.3.(p); 1881.(k)
Educational Psychologist	651., 4989.54.(e); 1858.(m)
Marriage and Family Therapist, MFT Intern and Trainee	651., 4982.(p)
Fictitious Business Names (see FICTITIOUS BUSINESS NAMES)	
License Number in Directories and Advertisements	1811.
Referral Service Advertising	1889.3.
AGING AND LONG TERM CARE TRAINING	
Applicant	4980.39.(a), 4996.25.
Licensee	4980.395., 4996.26.
ALCOHOLISM/SUBSTANCE DEPENDENCY TRAINING	
Applicant	4980.41.(d),(h), 4980.80.(d), 4980.90.(b)(4),(8), 4996.2.(e), 4996.17.(a)(3)

A (continued)

Licensee	29., 1810., 1887.3.(b)
APPLICANT	
Employment in Private Practice – MFT Intern	4980.43.(f)(2)
Definition of Applicant (MFT Intern or License)	4980.03.(d)
Qualifications for Registration	
Applicant for Associate Clinical Social Worker	4996.18.
Applicant for MFT Intern	4980.37., 4980.38.
Qualifications for Licensure	
Applicant for Clinical Social Worker License	4996.2., 4996.21., 4996.23., 4996.25.
Applicant for Educational Psychologist License	4989.20.
Applicant for Marriage and Family Therapist License	4980.39., 4980.40., 4980.41., 4980.42.
Remuneration from Clients – Prohibited (MFT)	4980.43.(i)
Supervision Requirement (MFT)	4980.43.(a), (b)
Volunteer Services	4980.43.(k)
APPLICATIONS	
Abandonment/Ineligibility	4984.7.(h), 4989.68., 4996.4., 1806., 1833.3.
Denial of Application (see DENIAL)	
False Statements or Impersonation	4992.7.
Fees (see FEES)	
Form Prescribed by Board	1805.(a)
Processing Time	1805.1
ASSOCIATE CLINICAL SOCIAL WORKER	
Application for Registration	4996.18.(a)
Employment	
Employment as Independent Contractor Prohibited	4996.18.(d); 4996.21.(h)(1); 4996.23.(k)(1)
Private Practice Setting	4996.20.(c); 4996.21.(e)(3), 4996.23.(g)
Experience	
Effective January 1, 2002	4996.23.
Effective January 1, 1999	4996.21.
Expiration of Registration	4996.18.(b)
Extension of Registration	4996.18.(c)
Notification to Clients	4996.18.(e)
Proprietary Interest – Prohibited	4996.20.(c)(4); 4996.21.(h)(2); 4996.23.(l)(2)
Registration Fee	4996.18.(a); 1816.1.(e)
Renewal of Registration	4996.18.(b)
Remuneration from Clients – Prohibited	4996.20.(c)(2); 4996.21.(h)(1); 4996.23.(l)(1)
Remuneration from Employer	4996.20(c)(1); 4996.21.(g); 4996.23.(l)(1)
Reporting Requirements	1881.(o), (p)
Qualification for Registration	4996.18(a)
Supervision	
Definition	4996.20.(b); 4996.21.(d); 4996.23.(b)
Consultation or Peer Discussion not Considered Supervision	4996.20.(b); 4996.21.(c); 4996.23.(b)
Off Site Supervisor	4996.20.(d); 4996.21.(i)
Responsibility Statement	4996.23.(c)(1), 1870.(a)
Supervisor Requirements	4996.18.(f); 4996.20.(d); 4996.21.(i); 4996.23.(m); 1870.
Supervisory Plan	4996.21(e); 4996.23.(d); 1870.(a)(7); 1870.1.
Time Limit for Registration	4996.18.(b)
Unprofessional Conduct	4992.3.; 1881.

B

BOARD MEMBERS	
Appointment	4990.(d), (e)
Chairperson	4990.(g)
Delegation of Certain Functions	1803.
Duty of Enforcement	4990.12.
Number of Board Members	4990.(g)
Per Diem and Expenses	4990.(h)
Powers	4990.12., 4990.20., 4990.24.

Qualifications of Members	4990.(a), (b), (c)
Term of Office	4990.(e), (f)
Vice Chairperson	4990.(g)
Vacancies	4990.(f)
BOARD SEAL	4990.14.

C

CERTIFICATION OF FULFILLMENT OF REQUIREMENTS (MFT Program)	4980.38.
CERTIFICATION OF LICENSE	4984.7.(k), 4989.68.(a)(8), 4996.6.(h), 1816.5.(b)
CHEMICAL DEPENDENCY	
Clinical Social Worker and Associate	4992.35.
Educational Psychologist	4989.54.(c)
Marriage and Family Therapist and Intern	4982.1.
CHEMICAL DEPENDENCY TRAINING (see ALCOHOLISM/SUBSTANCE DEPENDENCY TRAINING)	
CHILD ABUSE TRAINING REQUIREMENT	
Applicant	28., 4980.41.(b), 4980.80.(b), 4980.90.(a)(2), 4996.2.(h), 4996.17.(b)(2)(A), 4996.17.(c)(1)(A)
Licensee	28., 1807.2.
CHILD ABUSE REPORTING REQUIREMENT	1845.(c), 1858.(o), 1881.(o), Penal Code § 11166.(a)
CITATIONS AND FINES	
Administrative Hearing	1886.70.(a)
Authority	1886.
Citable Offenses	1886.40.
Compliance with Citation	1886.60.
Contested Citations	1886.70.
Consideration of Factors	1886.30.
Disconnection of Telephone Service (Unlicensed Persons)	149.; 1886.80.
Exceptions	1886.50.
Fines	1886.40., 1886.60.
Format	1886.20.
Informal Conference	1886.70.(b), (c), (d)
Order of Abatement	1886.60.
Unlicensed Practice	1886.10.
CLINICAL SOCIAL WORK	
Accredited School of Social Work	4991.2
Activities of a Psychosocial Nature in Specific Settings	4996.14.
Activities of a Psychosocial Nature/Social Work Interns	4996.15.
Definition	4996.9.
Necessity of License	4996.
Other Professional Groups	4996.13.
Persons from Out of State	4996.16.
Scope of Practice	4996.9.
CLINICAL SOCIAL WORKERS	CHAPTER 14
Continuing Education	4996.22.
Corporations (see CORPORATIONS)	
Display of Current Renewal Receipt	4996.8.
Display of License	4996.7.
Inactive License	4997., 1816.6.
Initial Licensure	4996.3.(c), 1816.1.
Mental Illness or Chemical Dependency	4992.35.; 820.
Name Change	4992.8.
Renewal (See RENEWAL)	
Rules and Regulations	4998.6.
Scope, Form, and Content of License	4996.5.
Scope of Practice	4996.9.
Suspension or Revocation of License; Grounds; Conduct of Proceedings	4996.11.
Unprofessional Conduct	4992.3.; 1881.
CONFIDENTIALITY	

C (continued)

Clinical Social Worker and Associate	4992.3.(m); 1881.(i)
Educational Psychologist	4989.54.(q), 1858.(k)
Marriage and Family Therapist, MFT Intern and Trainee	4982.(m)
CONTINUING EDUCATION	166., 1887. – 1887.12.
Licensee Requirements	
Aging and Long-Term Care	
Clinical Social Worker	4996.26.
Marriage and Family Therapist	4980.395.
Alcoholism/Other Chemical Substance Dependency	29., 1810., 1887.3.(b)
Audit of Records	
Clinical Social Worker	4996.22.(b)
Educational Psychologist	4989.34(e)
Marriage and Family Therapist	4980.54.(d)
Child Abuse Assessment/Reporting	28., 1807.2.
Clinical Social Worker Requirements	4996.22., 1887.-1887.12.
Course Requirements	1887.3.
Definitions	1887.
Educational Psychologist Requirements	4989.34., 1887. – 1887.12.
Exceptions from Requirements	4980.54.(e); 4989.34.(b), 4996.22.(c), 1887.2.
Falsifying or Misrepresenting Continuing Education Credit	1887.1.(b)
Hours of Continuing Education Credit - Equivalency	1887.5.
Hours of Continuing Education Required	4980.54.(c), 4989.34.(a), 4996.22.(a), 1887.3.(a)
Inactive License	1887.2.(b)
Initial Licensee Continuing Education Requirement	1887.2.(a)
Law and Ethics Course	1887.3.(d)
Licensee and Provider Course Records	1887.12.
Renewal Certification	1887.1.
Marriage and Family Therapist Requirements	4980.54., 1887.-1887.12.
Provider Fees	1819.1.
Reactivation of License	4984.8., 4989.44.(d), 4997
Spousal or Partner Abuse Assessment	4980.57., 4996.22.(a)(3)
Providers	4980.54.(f), 4989.34.(c), 4996.22.(d), 1887.6.
Definition	1887.(c)
Board Approved Providers	1887.7.
Course Advertisements	1887.9.
Course Content	1887.4.
Course Instructor Qualifications	1887.10.
Licensee and Provider Course Records	1887.12.
Provider Fees	1819.1.
Records of Course Completion	1887.11.
Revocation and Denial of Board-Approved Providers	1887.8.
CORPORATIONS	
Licensed Clinical Social Workers	
Application of Article	4996.19.
Definition	4998.
Directors, Shareholders and Officers	4998., 4998.3.
Fictitious Business Names	4998.2.
Income Attributable to Shareholder who is Disqualified Person	4998.4., 1850.7.(f)
Insurance Against Claims	4990.20.(b)(2)
Name of Corporation	4998.2.; 1850.6.
Sales of Stock Owned by Disqualified or Deceased Person	4990.20.(b)(1)
Shares; Ownership and Transfers	1850.7.
Unprofessional Conduct	4998.1., 4998.5.
Marriage and Family Therapists	
Corporate Unprofessional Conduct	4988.1.
Definition	4987.5.
Directors, Shareholders, and Officers	4987.8.
Employment of Interns	4980.45.(b)
Fictitious Business Names	4987.7.
Income for Prof. Services not to Accrue to Disqualified Persons	4988., 1850.7.(f)

C (continued)

Insurance Against Claims	4990.20.(b)(2)
Name of Corporation	4987.7.; 1850.6.
Rules and Regulations	4988.2.
Sales of Stock Owned by Disqualified or Deceased Person	4990.20.(b)(1)
Shares; Ownership and Transfer	1850.7.
Unprofessional Conduct	4987.6.
COURSE WORK, ADDITIONAL	
Aging and Long Term Care	
Applicant for Clinical Social Worker License	4996.25.
Applicant for Marriage and Family Therapist License	4980.39.
Alcoholism and Other Chemical Dependency	1810.
Applicant for Clinical Social Worker License	4996.2.(e), 4996.17.(a)(3)
Applicant for Marriage and Family Therapist License	4980.41.(d),(h), 4980.80.(d), 4980.90.(b)(4),(8)
Child Abuse Assessment	1807.2.
Applicant for Clinical Social Worker License	28., 4980.41.(b), 4980.80.(b), 4980.90.(a)(2)
Applicant for Marriage and Family Therapist License	28., 4996.2.(h), 4996.17.(a)(1).
Course Work Requirements to Sit for Examination	4980.41., 4996.2.
Human Sexuality	--
Applicant for Clinical Social Worker License	25., 4996.2.(g), 1807.
Applicant for Marriage and Family Therapist License	25., 4980.41.(c), 1807.
Psychological Testing	4980.41.(f)
Psychopharmacology	4980.41.(g)
Spousal and Partner Abuse Assessment	
Applicant for Clinical Social Worker License	4996.2.(f), 4996.17(a)(4)
Applicant for Marriage and Family Therapist License	4980.41.(e), 4980.80.(e),(h), 4980.90.(b)(5),(8)
CRITERIA	
Rehabilitation-Denial of License	1813.
Rehabilitation-Suspension or Revocation	1814.
Substantial Relationship	1812.

D

DECLARATORY DECISIONS	1800.
DEGREE REQUIREMENTS	4980.37., 4980.40, 4989.20., 4996.2.(b)
DELINQUENT LICENSES	
Fees	4984.7.(d), 4989.68.(a)(4), 4996.6.(d)
Renewal of Expired License	4984.1., 4989.36., 4996.6.(e)
Time Limit for Renewal After Expiration	4984.4., 4989.42., 4996.6.(f)
DENIAL OF APPLICATION/LICENSE/REGISTRATION	
Act that is Grounds for Revocation or Suspension	480.(a)(3)
Act Involving Dishonesty, Fraud, or Deceit	480.(a)(2)
Certificate of Rehabilitation	480.(b)
Conviction	
Applicant for Clinical Social Worker License	480.(a)(1), 4996.2.(d)
Applicant for Educational Psychologist License	480.(a)(1), 4989.24., 4989.28.
Applicant for Marriage and Family Therapist License	480.(a)(1), 4980.40.(h)
Clinical Social Worker and Associate	480.(a)(1), 4992.3.(a)
Educational Psychologist	480.(a)(1), 4989.54.(a)
Marriage and Family Therapist and Intern	480.(a)(1), 4982.(a)
Disciplinary Action Imposed by Another State/Governmental Agency	
Clinical Social Worker	4992.36.(a)
Educational Psychologist	4989.54.(h)
Marriage and Family Therapist	4982.25.(a)
Disciplinary Action Imposed on Other Licenses/Registration	
Clinical Social Worker and Associate	4992.36.(b)
Educational Psychologist	4989.26.
Marriage and Family Therapist and Intern	4982.25.(b)
False Statement on Application	480.(c)

D (continued)

Mental Illness or Chemical Dependency	
Clinical Social Worker and Associate	820., 4992.35.
Educational Psychologist	820., 4986.75.
Marriage and Family Therapist and Intern	820., 4982.1.
Sexual Abuse of Children or Sexual Offender	480., 4980.40.(g), 4989.24., 4996.2.(d).
Statement of Issues	485.
Unprofessional Conduct	
Clinical Social Worker and Associate	4992.3.; 1881.
Educational Psychologist	4989.54.; 1858.
Marriage and Family Therapist , MFT Intern and Trainee	4982.; 1845.
DISCIPLINARY GUIDELINES	1888.
DISPLAY OF LICENSE	
Clinical Social Worker	4996.7.
Educational Psychologist	4986.41.
Marriage and Family Therapist	4980.31.
Renewal Receipt	4996.8.

E

EDUCATIONAL PSYCHOLOGISTS	CHAPTER 13.5
Continuing Education Requirements	4989.34.
Display of License	4989.48.
Expired Licenses	4989.36.
Fees	4989.68., 1816.1.(c)
Inactive License	4989.44., 1816.6.
Injunction	4989.64.
Issuance of License	4989.40.
Mental Health and Chemical Dependency	820., 4989.56.
Practice by Licensees	4989.50.
Professional Functions Authorized	4989.14.
Renewal of License	
Expired License	4989.36.
Revoked License	4989.40.
Suspended License	4989.38.
Time Limit for Renewal After Expiration	4989.42.
Unexpired License	4989.32.
Rules of Professional Conduct	4989.18.
Sexual Contact with Patient or Former Patient	4989.58.
Scope of Practice	4989.14.
Unprofessional Conduct	4989.54., 1858.
Violations/Punishment	4989.66.
EDUCATIONAL PSYCHOLOGIST (APPLICANT)	
Equivalent Degrees	1854.
Equivalent Experience in Pupil Personnel Services	1855.
Examinations	
Eligibility	4989.20., 4989.22.
Examination Record Retention	4989.22.(c)
Experience as Credentialed School Psychologist	4989.20.(a)(5), 1856.
Qualifications for Licensure	4989.20.
Supervised Professional Experience	4989.20.(a)(5), 1857.
EQUIVALENT ACCREDITING AGENCIES	1832.
EXAMINATIONS	
Abandonment of Application	4984.7.(h), 4989.22.(b), 4996.4., 1806.
Applicants for Clinical Social Worker License	4996.3.; 1816.4(b)
Clinical Vignette Examinations	
Clinical Social Worker Applicant	4992.1.(b), 4996.3.(a), 4996.4., 1877.(b)
Marriage and Family Therapist Applicant	4980.40.(g), 4980.50.(d),(e),(g), 4984.7.(g),(h), 1829.(b).
Denying Admission to Examination (MFT)	4980.50.
Fees	4984.7.(g); 4989.68., 4996.3.(b); 1816.2., 1816.4.

E (continued)

Re-Examinations	
Clinical Social Worker Applicant	4996.4.
Educational Psychologist Applicant	4989.22.(b)
Marriage and Family Therapist Applicant	4984.7.(h), 1833.3.
Rescoring Fees	
Clinical Social Worker Examinations	4996.3.(b).; 1816.3.
Educational Psychologist Examinations	4989.68.(a)(6), 1816.3.
Marriage and Family Therapist Examinations	4984.7.(i)., 1816.3.
Seven-Year Limitation on Written Examinations	
Clinical Social Worker Applicant	4992.1.(b)
Marriage and Family Therapist Applicant	4980.50.(g)
Standard Written Examination	
Clinical Social Worker	4992.1.(b), 4996.3.(a)
Marriage and Family Therapist	4980.50.(c),(d),(e),(g); 4984.7.(g),(h), 1829.(a); 1877.(a)
Record Retention	
Clinical Social Worker	4992.1.(b)
Educational Psychologist	4989.22.(c)
Marriage and Family Therapist	4980.50.(f)
Time and Place of Examinations	
Clinical Social Worker	4992.5.
Marriage and Family Therapist	4980.50.(a)
Withholding Results of Examination	4980.50.(d)
Written Clinical Vignette Examinations (see Clinical Vignette Examinations)	
Written Examination, LEP (for LCSW or MFT see Standard or Clinical Vignette Examinations)	4989.20.(a)(6), 4989.22.
EXECUTIVE OFFICER	4990.04
Appointment/Service	4990.04.(a), (b)
Compensation	4990.04.(d)
Duty of Enforcement	4990.04.(c)
Delegation of Functions	1803.
Powers and Duties	4990.04.(c), (e); 4990.12., 4990.24., 1886.
EXEMPTIONS FROM LICENSURE	
Clinical Social Work	4996.13.; 4996.14.; 4996.15.
Educational Psychology	4989.16.
Marriage and Family Therapy	4980.01.
EXPERIENCE	
Applicant for Clinical Social Worker License	4996.21.; 4996.23.
Applicant for Educational Psychologist License	4989.20.; 1855.; 1856.; 1857.
Applicant for Marriage and Family Therapist License	4980.40., 4980.43.; 1833.
Experience Gained Outside California	
Applicant for Clinical Social Worker License	4996.17.
Applicant for Marriage and Family Therapist License	4980.80., 4980.90.
EXPIRATION OF LICENSE/REGISTRATION	
Associate Clinical Social Worker Registration	4996.18.(b)
Clinical Social Worker License	4996.6.(b)
Educational Psychologist License	4989.30.
Marriage and Family Therapist License	4984.
Marriage and Family Therapist Intern Registration	1846.
Renewal (see RENEWAL)	

F

FEES	
Certification Fee	4984.7.(k), 4989.68.(a)(8), 4996.6.(h), 1816.5.(b)
Continuing Education Provider Fees	1819.1
Delinquency Fee	
Clinical Social Worker	4996.6.(d); 1816.7.(b),(e)

F (continued)

Educational Psychologist	4989.68.(a)(4); 1816.7.(c).(f)
Marriage and Family Therapist	4984.7.(d); 1816.7.(a).(d)
Examination Fees	
Application Fee	1816.4.
Clinical Social Worker Examination	4996.3.(b); 1816.2.(a).(b)
Educational Psychologist Examination	4989.68.(a)(5); 1816.2.(e)
Marriage and Family Therapist Examination	4984.7.(g); 1816.2.(c).(d)
Rescoring Fee	4984.7.(i), 4989.68.(a)(6), 4996.3.(b), 1816.3.
Failure to Disclose Fees in Advance	
Clinical Social Worker and Associate	4992.3.(n); 1881.(j)
Educational Psychologist	4989.54.(o), 1858.(l)
Marriage and Family Therapist and Intern	4982.(n)
Inactive License Fee	
Clinical Social Worker License	4997., 1816.6.(b)
Educational Psychologist License	4989.44.(c), 1816.6.(c)
Marriage and Family Therapist License	4984.8., 1816.6.(a)
Initial License Fee	
Clinical Social Worker	4996.3.(c); 1816.1.(b)
Educational Psychologist	4989.68.(a)(2); 1816.1.(c)
Marriage and Family Therapist	4984.7.(b); 1816.1.(a)
License Application Fees	
Clinical Social Worker	4992.; 4996.3.(a)
Educational Psychologist	4989.68.(a)(1)
Marriage and Family Therapist	4984.7.(a)
Reduction of Fees	4994.1.
Re-Examination Fees	
Clinical Social Worker	4996.4., 1816.2.(a), (b)
Educational Psychologist	4989.68.(a)(5), 1816.2.(e)
Marriage and Family Therapist	4984.7.(h), 1816.2.(c), (d)
Registration Fees	
Associate Clinical Social Worker	
Application	4996.18.(a), 1816.1.(e)
Extension	4996.18.(c), 1816.(g)
Renewal	4996.18.(b), 1816.(f)
Marriage and Family Therapist Intern	
Application	4984.7.(e), 1816.1.(d)
Renewal	4980.44.(a)(3); 4984.7.(f), 1816.(e)
Renewal Fees	
Associate Clinical Social Worker	4996.18.(b), 1816.(f)
Clinical Social Worker	4996.6, 4996.65., 1816.(b), 1816.7.(b)
Continuing Education Provider	1816.(d)
Educational Psychologist	4989.68.(a)(3), 1816.(c), 1816.7.(c)
Marriage and Family Therapist	4984.7., 4984.75., 1816.(a), 1816.7.(a)
Marriage and Family Therapist Intern	4980.44.(a)(3), 1816.(e)
Replacement Fee	4984.7.(j), 4989.68.(a)(7), 4996.6.(g), 1816.5.(a)
FICTIOUS BUSINESS NAMES	
Clinical Social Worker Corporation	4998.2.
Marriage and Family Therapist Corporation	4987.7.
Marriage and Family Therapist	4980.46.
FOREIGN EDUCATION (see OUT-OF-COUNTRY EDUCATION)	
FRAUDULENT, DISHONEST, OR CORRUPT ACTS	
Clinical Social Worker and Associate	480.(a)(2), 4992.3.(j); 1881.(e)
Educational Psychologist	480.(a)(2), 4989.54.(g); 1858.(e)
Marriage and Family Therapist , MFT Intern and Trainee	480.(a)(2), 4982.(j)

H

HUMAN SEXUALITY TRAINING	25., 4980.41.(c), 4996.2.(g), 1807.
--------------------------	-------------------------------------

I

INACTIVE LICENSE	
Clinical Social Worker	4997.
Educational Psychologist	4989.44.
Exemption from Continuing Education Requirement	4989.34.(b), 1887.2.(b)
Fees	4984.8., 4989.44., 4997., 1816.6.
Marriage and Family Therapist	4984.8.
INJUNCTION	
Educational Psychologist	4989.64.
Marriage and Family Therapist , MFT Intern and Trainee	4983.1.
INTERN (SEE MARRIAGE AND FAMILY THERAPIST INTERN)	

L

LICENSE	
Address Change	1804.
Certification Fees (see FEES)	
Continuing Education (see CONTINUING EDUCATION)	
Delinquent License (see DELINQUENT LICENSES)	
Display of Current Renewal Receipt (LCSW)	4996.8.
Display of License	
Clinical Social Worker	4996.7.
Educational Psychologist	4989.48.
Marriage and Family Therapist	4980.31.
Fee Schedule (for complete listing of fees, see FEES)	
Clinical Social Worker	4996.6.
Educational Psychologist	4989.68.
Marriage and Family Therapist	4984.7.
Expired License (see DELINQUENT LICENSES)	
Inactive License	
Clinical Social Worker	4997.
Educational Psychologist	4989.44.
Marriage and Family Therapist	4984.8.
Issuance of License	
Clinical Social Worker	4996.1.
Educational Psychologist	4989.20.
Marriage and Family Therapist	4980.50.(h)
Name Change	
Clinical Social Worker and Associate	4992.8.
Educational Psychologist	4989.46.
Marriage and Family Therapist and Intern	4984.9.
Necessity of License	
Clinical Social Worker	4996., 4996.9., 4996.13., 4996.14., 4996.15., 4996.16.
Educational Psychologist	4989.14., 4989.50.
Marriage and Family Therapist	4980., 4980.01., 4980.02., 4980.10
Placing License or Registration on Probation	4982.15., 1888.
Qualifications for License	
Clinical Social Worker	4996.2.
Educational Psychologist	4989.20.
Marriage and Family Therapist	4980., 40.
Reinstatement of Revoked License After Expiration	
Clinical Social Worker	4996.6.
Educational Psychologist	4989.40.
Marriage and Family Therapist	4984.3.
Renewal of License (see RENEWAL)	
Replacement License Fees (see FEES)	1816.5.
Scope of Practice	4980.02., 4989.14., 4996.5.
Securing License by Fraud or Misrepresentation	
Clinical Social Worker	4992.3.(b);1887.1.(b)
Educational Psychologist	4989.54.(b)

L (continued)

Marriage and Family Therapist	4982.(b); 1887.1(b)
Title Protection	4980.(b), 4989.50., 4996.(a), 4996.13.
LICENSE RENEWAL (see RENEWAL)	

M

MARRIAGE AND FAMILY THERAPISTS	CHAPTER 13
Continuing Education Requirements	29.; 32., 4980.54.; 1887.1.; 1887.3.
Display of License	4980.31.
Engaging in Practice	4980.10.
Employment of Interns in Private Practice	4980.45.(a)
Fictitious Business Names	4980.46.
Grounds for Refusal to License or Register (Mental Illness)	820., 4982.1.
Inactive License	4984.8., 1816.6.
License Title Name Change	4980.08.(a)
Renewal	4984.; 4984.1.; 4984.2.;
Scope of Practice	4980.02.
Statement of Experience, etc. to Clients	4980.55.
Unprofessional Conduct	4982.; 1845.
Violation/Punishment	4983.
MARRIAGE AND FAMILY THERAPIST CORPORATIONS (see CORPORATIONS)	
MARRIAGE AND FAMILY THERAPIST INTERN	
Alternative Supervision	4980.43.(f)(4)
Definition of an Intern	4980.03.(b)
Engaging in Practice	4980.10.
Employment as an Independent Contractor - Prohibited	4980.43.(b); 1833.(d)(3)
Employment in Private Practice	4980.43(f)(2); 4980.45.; 1833.(d)(1)
Grounds for Refusal to License or Register (Mental Illness)	4982.1.; 820.
Notice to Clients	4980.44.(a)(4)
Professional Experience	4980.43.; 1833.
Proprietary Interest - Prohibited	4980.43(j)
Qualifications	4980.44.
Registration Fees	1816.1.(d)
Remuneration from Clients - Prohibited	4980.43.(i)
Remuneration to Interns	4980.43.(f)(3)
Renewal	4980.44.(a)(3)
Renewal not Possible Beyond Six Years	4980.44.(a)(5), (b)
Reporting Requirements	1845.(c),(d)
Subsequent Intern Registration	4980.44.(b)
Supervision Requirement	4980.43.; 1833.1.
Supervision in Private Practice	4980.43.(f); 1833.(d)(1)
Unprofessional Conduct	4982.; 1845.
Volunteer Services	4980.43.(k)
Weekly Logs of Hours of Experience	1833.(e)
MENTAL ILLNESS OR CHEMICAL DEPENDENCY	
Clinical Social Worker and Associate	820., 4990.28., 4992.35.
Educational Psychologist	820., 4990.28.
Marriage and Family Therapist and Intern	820., 4982.1.; 4990.28.
MISREPRESENTATION OF LICENSE OR REGISTRATION	
Clinical Social Worker and Associate	4992.3(f); 1881.(a)
Educational Psychologist	4989.54.(l).; 1858.(a)
Marriage and Family Therapist , MFT Intern and Trainee	4982.(f)

N

NECESSITY OF LICENSE	
Clinical Social Worker	4996., 4996.9., 4996.13., 4996.14., 4996.15., 4996.16.
Educational Psychologist	4989.14., 4989.50.
Marriage and Family Therapist	4980., 4980.01., 4980.02., 4980.10

O

OUT-OF-COUNTRY EDUCATION	4980.40.(j), 4996.18.(h)
OUT-OF-STATE EDUCATION	
Clinical Social Workers	4996.17.
Marriage and Family Therapists	4980.90.(b)
OUT-OF-STATE EXPERIENCE	
Clinical Social Workers	4996.17.
Marriage and Family Therapists	4980.90(a).
OUT-OF-STATE LICENSEES (LCSW)	4996.16.

P

PENALTY/VIOLATION	
Clinical Social Worker and Associate	4996.12.
Educational Psychologist	4989.66.
Marriage and Family Therapist and Intern	4983.
PETITION FOR REINSTATEMENT OR MODIFICATION	4982.2.; 4990.30., 1814.(b)
PROBATION	4990.34.
Placing of License or Registration on Probation	4982.15., 4990.34.(a), 1888.
Petition for Modification of Penalty	4982.2.(a)(3), 4990.30.(a)
Probation Monitoring Cost	4982.15.(b), 4990.34.(b)
Probation Monitoring Program	4982.15.(b), 4990.34.(b)
Requirement of Probationer to Obtain Training and Pass Exams	4982.15.(c), 4990.36.
PROCESSING TIMES	1805.1.
PROFESSIONAL THERAPY NEVER INCLUDES SEX - BROCHURE	728.
PUBLIC PROTECTION	4980.34.(c), 4990.16.

Q

QUALIFICATIONS FOR LICENSURE	
Applicant for Clinical Social Worker License	4996.2.
Applicant for Educational Psychologist License	4989.20.
Applicant for Marriage and Family Therapist License	4980.40.

R

RECIPROCITY	
Clinical Social Worker	4996.16., 4996.17.
Marriage and Family Therapist	4980.80., 4980.90.
RECORDS (Client Access to Records)	Health and Safety Code § 123110.
RECORDKEEPING REQUIREMENT	
Clinical Social Worker and Associate	4992.3.(s)
Educational Psychologist	4989.54.(j)
Marriage and Family Therapist , MFT Intern and Trainee	4982.(v)
RECOVERY COSTS	125.3.
REFERRAL SERVICES (MFT)	
Advertising and Referral Guidelines	1889.3.
Definitions	1889.
Registration	1889.1.
Revocation or Denial of Registration	1889.2.
REGISTRATION RENEWAL (see RENEWAL)	
REHABILITATION	

R (continued)

Criteria for Rehabilitation - Denial of License	1813.
Criteria for Rehabilitation - Suspension or Revocation	1814.
RENEWAL	
Board-Approved Continuing Education Provider	1816.(d)
License Renewal	
Clinical Social Worker	
Continuing Education	1887.1.
Expired License	4996.6.(d)
Fees	4996.6., 4996.65., 1816.(b), 1816.7.(b)
Requirements	4996.6.
Time Limit for Renewal After Expiration	4996.6(f)
Unexpired License	4996.6.(b),(c)
Educational Psychologist	
Expired License	4989.36.
Fees	4989.68., 1816.(c), 1816.7.(c).
Requirements	4989.32.
Revoked License	4989.40.
Suspended License	4989.38.
Time Limit for Renewal After Expiration	4989.42.
Unexpired License	4989.32.
Marriage and Family Therapist	
Continuing Education	1887.1.
Expired License	4984.1.
Fees	4984.7., 4984.75. 1816.(a), 1816.7.(a)
Requirements	4984.
Revoked License	4984.3.
Suspended License	4984.2.
Time Limit for Renewal After Expiration	4984.4.
Unexpired License	4984.
Registration Renewal	
Associate Clinical Social Worker	4996.18.(b), 1816.(f)
Renewal not Possible Beyond Six Years	4996.18.(b)
Marriage and Family Therapist Intern	4980.44.(a)(3), 1816.(e)
Renewal not Possible Beyond Six Years	4980.44.(a)(5), (b)
REPORTING REQUIREMENTS	
Child Abuse	
Clinical Social Worker and Associate	1881.(o); Penal Code § 11166.(a)
Educational Psychologist	4989.54.(v); 1858.(o); Penal Code § 11166.(a)
Marriage and Family Therapist , MFT Intern and Trainee	1845.(c); Penal Code § 11166.(a)
Dependent Adult or Elder Abuse	
Clinical Social Worker and Associate	1881.(p); Welfare and Institutions Code § 15630.(b)(1)
Educational Psychologist	4989.54.(w); 1858.(p); Welfare and Institutions Code § 15630.(b)(1)
Marriage and Family Therapist	1845.(d); Welfare and Institutions Code § 15630.(b)(1)
REVENUE	
Appropriation of Funds	4984.6.
Expenditures	4990.22.
Records of Funds	4984.6.
Reduction of Fees	4994.1.
Report and Payment of Revenue	4984.5.
Surplus Funds	4984.6.(c), 4990.22.(c)
REVOCATION OF LICENSE OR REGISTRATION	
Criteria for Rehabilitation - Suspension or Revocation	1814.
Conduct of Proceedings	
Clinical Social Worker and Associate	4992.4.; 4996.11.
Marriage and Family Therapist and Intern	4982.3.
Unprofessional Conduct	
Clinical Social Worker and Associate	4992.3; 1881.
Educational Psychologist	4989.54.; 1858.
Marriage and Family Therapist , MFT Intern and Trainee	4982.; 1845.

S

SCOPE OF PRACTICE	
Clinical Social Worker	4996.9.
Educational Psychologist	4989.14.
Marriage and Family Therapist	4980.02.
SEAL (Board)	4990.14.
SEXUAL MISCONDUCT	
Clinical Social Worker and Associate	726.; 729., 4992.3.(k); 4992.33.; 1881.(f).
Educational Psychologist	726.; 729., 4989.58.; 1858.(h)
Marriage and Family Therapist , MFT Intern and Trainee	726.; 729., 4982.(k); 4982.26.
SEXUAL MISCONDUCT BROCHURE	728.
SOCIAL WORK/WORKER (see CLINICAL SOCIAL WORK/WORKER)	
SPOUSAL OR PARTNER ABUSE ASSESSMENT TRAINING	
Applicant	4980.41.(e), 4980.80.(e),(h), 4980.90.(b)(5),(8), 4996.2.(f), 4996.17(a)(4)
Licensee	4980.57., 4996.22.(a)(3)
STATUTE OF LIMITATIONS	4990.32.
Clinical Social Worker and Associate	4992.31.
Educational Psychologist	4990.32.
Marriage and Family Therapist and Intern	4982.05.
SUBSTANTIAL RELATIONSHIP CRITERIA	1812.
SUNSET DATES	4989., 4990.(i), 4990.04.(f), 4990.24.
SUPERVISION	
Alternative Supervision (MFT Interns)	4980.43.(f)(4)
Consultation or Peer Discussion not Considered Supervision (ASW)	4996.20.(b); 4996.21.(c)
Definition of Acceptable Mental Health Professionals (ASW Supervisors)	1874.
Definition of Supervision	4996.20.(b); 4996.21.(b); 1833., 1833.1.
Definition of Supervisor of MFT Trainee or Intern	4980.03.(g), 1833.1.
Experience Gained Outside of California	4980.90(a), 4996.17., 1833.2.
Experience Gained Under Supervision of Relative or Spouse – Prohibited	
Associate Clinical Social Worker	4996.18.(f)
Marriage and Family Therapist Intern or Trainee	1833.(b)(3)
Group Supervision	
Associate Clinical Social Worker	4996.20.(b); 4996.21.(d)
Marriage and Family Therapist Intern or Trainee	4980.43.(c); 1833.(b)(1)
Individual Supervision	
Associate Clinical Social Worker	4996.20.(b); 4996.21.(d)
Marriage and Family Therapist Intern or Trainee	4980.43.(c); 1833.(b)(2)
Requirements for Supervisors of ASWs	1870., 1870.1.
Requirements for Supervisors of MFT Interns and Trainees	1833.1.
Responsibility Statement for Supervisors	1833.1.(a),(b); 1870.(a)(8)
Supervision of MFT Interns and Trainees in Settings Other than Private Practice	4980.43.; 1833.(b)(4); 1833.1.(a)(1)
Supervision of MFT Interns in Private Practice	4980.43.(f); 1833.(d)(1); 1833.1.(a)(12)(H)
Supervisor's Failure to Complete Coursework Requirements	1833.1.(h)
Supervisory Plan for ASWs	1870.1.
Unprofessional Conduct	
Clinical Social Worker Supervisors	4992.3.(r); 1881.(h)
Marriage and Family Therapist Supervisors	4982.(r),(t),(u); 1845.(b)
Weekly Log of Hours of Experience for MFT Interns and Trainees	1833.(e)
Written Agreement Between Supervisor and Organization	
Supervisors of Associate Clinical Social Workers	4996.20.(d); 4996.21.(i)
Supervisors of MFT Interns or Trainees	1833.(b)(4)
Written Notice of Intent not to Certify Further Hours of Experience	
Supervisors of Associate Clinical Social Workers	1870.(a)(9)
Supervisors of MFT Interns or Trainees	1833.1.(c)
SUSPENSION OF LICENSE/REGISTRATION	

S (continued)

Criteria for Rehabilitation - Suspension or Revocation	1814.
Conduct of Proceedings	4990.42.
Clinical Social Worker	4992.4.; 4996.11.
Educational Psychologist	4990.42.
Marriage and Family Therapist	4982.3.
Renewal of Suspended License	4984.2.
Unprofessional Conduct	
Clinical Social Worker and Associate	4992.3.; 1881.
Educational Psychologist	4989.54.; 1858.
Marriage and Family Therapist , MFT Intern and Trainee	4982.; 1845.
STATEMENT OF ISSUES (DENIAL OF APPLICATION)	485.

T

TELEMEDICINE	2290.5.
TRAINEES	
Definition	4980.03.(c)
Employment in Private Practice Prohibited	1833.(d)(2)
Employment as an Independent Contractor Prohibited	1833.(d)(3)
Notice to Clients	4980.48.
Proprietary Interest Prohibited	4980.43.(j)
Professional Experience	4980.42.(b); 4980.43.; 1833.
Remuneration from Clients Prohibited	4980.43.(i)
Responsibility Statement for Supervisors	1833.1.(a),(b)
Supervision Requirement	4980.43.(b),(c)
Trainee Services	4980.42.
Volunteer Services	4980.43.(k)
Weekly Log of Hours of Experience	1833.(e)
TITLE PROTECTION	4980.(b), 4989.50., 4996.(a), 4996.13.
TRAINING, ADDITIONAL (See COURSEWORK, ADDITIONAL)	

U

UNLICENSED ASSISTANTS (SOCIAL WORK INTERN)	4996.15.; 1880.
UNLICENSED PRACTICE	
Aiding and Abetting Unlicensed Practice	
Clinical Social Worker	4992.3.(h); 1881.(c)
Educational Psychologist	4989.54.(t), 1858.(c)
Marriage and Family Therapist	4982.(h)
Citations for Unlicensed Practice	1886.10.
Engaging in Practice – Prohibited	
Clinical Social Work	4996.(b)
Educational Psychology	4989.50.
Marriage and Family Therapy	4980.(b)
Exemptions	
Clinical Social Work	4996.13.; 4996.14.; 4996.15.
Educational Psychology	4989.16.
Marriage and Family Therapy	4980.01.
Penalties	4983.; 4989.66.; 4996.12.
UNPROFESSIONAL CONDUCT	
Clinical Social Worker and Associate	4992.3; 1881.
Educational Psychologist	4989.54.; 1858.
Marriage and Family Therapist , MFT Intern and Trainee	4982.; 1845.

V

VIOLATIONS/PENALTIES	
Clinical Social Worker and Associate	4996.12.
Educational Psychologist	4989.66.
Marriage and Family Therapist and Intern	4983.